



**Order under Section 69  
Residential Tenancies Act, 2006**

**Citation:** Manjunath v Gleiser, 2023 ONLTB 57362

**Date:** 2023-08-15

**File Number:** LTB-L-044987-22

**In the matter of:** BASEMENT, 59 ANNDALE DR NORTH  
YORK ON M2N2X2

**Between:** Veena Manjunath Landlord

**And**

Eric Gleiser Tenant

Veena Manjunath (the 'Landlord') applied for an order to terminate the tenancy and evict Eric Gleiser (the 'Tenant') because:

- the Landlord requires possession of the rental unit in order to convert the unit to a nonresidential use.

This application was heard by videoconference on May 4, 2023.

The Landlord, the Landlord's Agent, Manjunath Chikkahanumaiah, the Landlord's Legal Representatives, Bitu Di Lisa and Berkan Altun, the Tenant, and the Tenant's Legal Representative, Christina Nastas, attended the hearing.

**Determinations:**

1. As explained below, the Landlord has not proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the application is dismissed.
2. The Tenant was in possession of the rental unit on the date the application was filed.

3. On July 26, 2022, the Landlord gave the Tenant an N13 notice of termination with the termination date of November 30, 2022. The Landlord claims vacant possession of the rental unit is required for conversion to non residential use.

### Landlord's Evidence

4. The N13 notice of termination ('N13 Notice') given to the Tenant states:
  1. The landlord intends to convert the basement unit to non-residential use.
  2. Scope of work includes:
    - a) Remove and dispose of kitchen cabinets, countertop, sink, faucet and appliances.
    - b) Remove and dispose of drywall and framing of (1) partition wall
    - c) Demolition of the wall between the living room and bedroom in the basement
    - d) Add a suitable transition strip, either marble or hardwood, underneath the previous wall
    - e) Supply and install plumbing to cap kitchen drain and supply lines
    - f) Walls repair behind the removed kitchen cabinets and appliances
    - g) Supply and install electrical to eliminate kitchen outlets
    - h) Paint all affected areas with similar colours and do all necessary drywall repairs
  3. Estimate timeline: Six (6) months
5. The Landlord's Agent is the Landlord's husband and spoke on behalf of the Landlord. In his testimony, he stated it is their intention to convert the basement rental unit to non-residential use as they want to use the basement for storage purposes.
6. In his testimony, he stated they own several pieces of furniture as well as their son's furniture that they intend to store in the basement unit. He stated a storage unit is not convenient and is too expensive. He added some of the furniture is of high quality rosewood and teak and it is required to be in a climate controlled area of approximately 700 – 800 square feet.
7. The Landlord's Agent stated they have not secured any permits for the intended scope of work and does not believe it is their responsibility to know if permits are required as he would leave that to the contractors hired to do the work. He confirmed no permits have been obtained. He added the work necessary to convert the basement will cost between \$5,814.98 and \$26,500.00 however, his budget for this work is \$15,000.00. The Landlord's Legal Representative submitted three estimates as evidence. These estimates show costs of \$5,814.98, \$8,023.00, and \$26,500.00 to complete the required renovations to the basement.

### Tenant's evidence

8. In his testimony, the Tenant stated he does not believe the Landlord intends to the convert the basement unit to non-residential use. He stated the Landlord has not obtained any permits to do the work as listed in the N13 Notice and added the basement unit was

renovated in October of 2016. He stated it is his understanding that any demolition or conversion work to be performed in a house requires a permit from the City of Toronto and as the Landlord has not applied for a such a permit, he believes the Landlord is acting in bad faith.

9. The Tenant's Legal Representative submitted a permit application from the City of Toronto as evidence. This permit application indicates the City of Toronto prohibits the demolition or conversion of residential property unless a Rental Housing Demolition and Conversion Permit has been issued.
10. The Tenant added that prior to receiving the N13 Notice, the Landlord made financial offers for him to vacate the rental unit. He stated he did not accept any offers from the Landlord.

## Analysis

11. The Landlord argues that they are entitled to terminate the tenancy for what they believe is conversion to non-residential use. They say the basement is required for storage and the work to be done will be performed by a licensed contractor who will obtain any necessary permits.
12. The Tenant argues that the Landlord has not met the requirements of s.50(1)(b) of the Residential Tenancies Act, 2006 (the 'Act'). Namely, the Act makes it clear that in order for a landlord to seek a termination of a tenancy pursuant to this section, the landlord must be seeking to convert the unit from a residential use to a *non-residential use* (emphasis added). The Tenant argues that the Landlord clearly testified that he intends to use the space for storage. Further, if the Landlord does intend to convert the space to a non-residential use, the Landlord would need to seek a permit from the City of Toronto.
13. I have considered the parties facts and arguments and find in favour of the Tenant. The Tenant's evidence was logical, detailed and internally consistent. Conversely, the Landlord was at times unclear about the work to be performed, the costs involved, and the necessity of required permits.
14. The Landlord clearly wishes to use the rental unit for residential purposes, just not residential rental purposes. He wants to store his personal property in the rental unit, and that stated use is clearly residential. As noted in *Chin Wing Chung Tong Realty Co. v. Chen*, [1977] O.J. No. 2621(Ont. Co. Ct.) at paragraph 4, a landlord cannot use an N13 as a method to spread an existing use into another part of the same premises.<sup>1</sup>
15. Further, the City of Toronto prohibits the demolition or conversion of a residential rental property unless a Rental Housing Demolition and Conversion Permit has been issued. The Landlord confirmed no permits have been obtained.

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<sup>1</sup> [1977] O.J. No. 2621(Ont. Co. Ct.) at para. 4.

16. Based on the evidence before the Board, I am not satisfied on a balance of probabilities that the Landlord intends to convert the rental unit to non-residential use as stated on the N13 notice.
17. The Landlord's own evidence is that once the Tenant vacates, they will use the basement unit for storage of furniture and belongings. The Landlord does not intend to convert the rental unit to a commercial or industrial unit and is essentially going to maintain the unit in its current state although some renovations may be necessary.
18. As such, I am not satisfied that the Landlord has established that they intend to convert the rental unit to non-residential use. The Landlord's application for this reason must be dismissed.

**It is ordered that:**

1. The Landlord's application is dismissed.

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**August 15, 2023**

**Date Issued**

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**Susan Priest**

Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor,  
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.