



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

**Citation:** vu\_tr v Forget, 2023 ONLTB 51058

**Date:** 2023-07-19

**File Number:** LTB-L-024775-23

**In the matter of:** 11 GROSVENOR AVE  
SAULT STE. MARIE ON P6B2L8

**Between:** FFY International Consulting Inc. Landlords  
Vu Trinh

**And**

Tawnya Forget Tenants  
Kyle Trudeau

2023 ONLTB 51058 (CanLI)

FFY International Consulting Inc. and Vu Trinh (the 'Landlords') applied for an order to terminate the tenancy and evict Tawnya Forget and Kyle Trudeau (the 'Tenants') because the Landlords have entered into an agreement of purchase and sale of the rental unit and the purchaser in good faith requires possession of the rental unit for the purpose of residential occupation.

This application was heard by videoconference on July 12, 2023.

Only the Landlord, Vu Trinh attended the hearing. Jordan Lanktree (J.L.) and Jason Sproule (J.S.) appeared as witnesses for the Landlord.

The Tenants sent an email to the Board on June 21, 2023 which indicated their intention to attend the hearing however, as of 9:30 a.m., the Tenants were not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

**Determinations:**

1. As explained below, the Landlords have proven on a balance of probabilities the grounds for termination of the tenancy in the application. Therefore, the tenancy is terminated on
2. The Tenants were in possession of the rental unit on the date the application was filed.

N12 Notice of Termination – Purchaser’s Own Use

3. On February 13, 2023, the Landlord gave the Tenants an N12 notice of termination ('N12 Notice') deemed served on February 18, 2023 with the termination date of April 30, 2023. The notice was given on behalf of the purchaser who claims that they require vacant possession of the rental unit for the purpose of residential occupation by the purchaser.

### Compensation

4. The Landlord testified the Tenants are in arrears of rent however an agreement was signed by himself and the Tenants agreeing to vacate the rental unit on April 30, 2023 and in compensation, the Landlord would waive the rent arrears owing. He stated the Tenants reneged on the agreement and instead became insulting and aggressive towards himself and his property manager.
5. J.L. testified that prior to the termination date he personally advised the Tenants of the Landlords' responsibility to pay them compensation equal to one month's rent and told them the Landlord would waive the rent arrears for one month to satisfy the statutory requirement. He stated he also sent the Tenants an email on April 30, 2023 asking how the move was coming along. He received a response from the Tenants in which they wrote "see you in court".
6. In his uncontested testimony, the Landlord stated because the Tenants' response to the email was derogatory and as he did not received an affirmative response with respect to waiving one month's rent, he sent an e-transfer in the amount of \$900.00 to the Tenant, Tawnya Forget, on June 21, 2023. He confirmed this payment was deposited directly into the Tenants bank account and was not returned to him.
7. The question turns on whether I might exercise any discretion afforded to me by subsection 190(2) of the *Residential Tenancies Act, 2006* (the 'Act') to extend the deadline for the payment of compensation contained in section 55.1 and allow the compensation to be paid after the termination date contained in the N12 Notice.
8. Upon consideration of the uncontested submissions made to me, I am electing to exercise my discretion afforded under section 190(2) of the Act to extend the deadline given in section 55.1. I am satisfied the Landlords made reasonable efforts to compensate the Tenants prior to the termination date as they sought affirmation from the Tenants to waive one month's rent prior to the termination date of which they did not receive. Furthermore, to satisfy the statutory requirement and despite rent arrears owed to the Landlords, the Landlords paid the mandatory compensation by sending an e-transfer to the Tenants of which the Tenants have not returned.

### *Good faith*

9. The N12 Notice was served pursuant to section 49 of the Act. Section 49(1) requires that, in order to be successful in this application, the Landlords must establish that at the time of the service of the N12 notice, the purchaser required, in good faith, the unit for residential use.
10. In *Feeney v. Noble*, 1994 CanLII 10538 (ON SC), the Court held that the test of good faith is genuine intention to occupy the premises and not the reasonableness of the Landlord's proposal. This principle was upheld in *Salter v. Beljinac* 2001 CanLII 40231 (ON SCDC), where the Court held "that the "good faith" requirement simply means that the Landlord sincerely intends to occupy the rental unit. The Landlord may also have additional motives for selecting a particular rental unit, but this does not affect the good faith of the Landlord's notice."

11. In the more recent case of *Fava v. Harrison*, [2014] O.J No. 2678 ONSC 3352 (Ont.Div.Ct.) the Court determined that while the motives of the Landlord are, per *Salter*, “largely irrelevant”, the Board can consider the conduct and motives of the Landlord to draw inferences as to whether the Landlord desires, in good faith to occupy the property.”
12. The Landlord testified, and also provided a signed declaration from the purchaser, dated April 17, 2023, that states the purchaser requires vacant possession the rental unit for the purpose of residential occupation.
13. The Landlord also provided an Agreement of Purchase and Sale, dated February 3, 2023, with a May 3, 2023 completion date for the transfer of property ownership. The Landlord testified that the completion date of the transaction continues to be postponed pending the termination of the Tenants’ tenancy, and that the most recent completion date was June 1, 2023. The Landlord also stated that due to the completion date being postponed, he is responsible to pay half the costs for storage of the purchaser’s personal property.
14. On the basis of the uncontested evidence provided, I am satisfied that the purchaser genuinely intends to use the rental unit for the purpose of residential occupation.
15. The Tenants did not attend the hearing and no circumstances were raised in accordance with subsection 83(2) of the Act by which I might find that it would be fair to grant relief from eviction. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

**It is ordered that:**

1. The tenancy between the Landlords and the Tenants is terminated. The Tenants must move out of the rental unit on or before July 30, 2023.
2. If the unit is not vacated on or before July 30, 2023, then starting July 31, 2023, the Landlords may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlords on or after July 31, 2023.

**July 19, 2023**

**Date Issued**

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Susan Priest

Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor,  
Toronto ON M7A 2G6

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

In accordance with section 81 of the Act, the part of this order relating to the eviction of the Tenants expires on January 31, 2024 if the order has not been filed on or before this date with the Court Enforcement Office (Sheriff) that has territorial jurisdiction where the rental unit is located.