



**Order under Section 77
Residential Tenancies Act, 2006**

Citation: Steeves and Rozema v Holder, 2023 ONLTB 49090

Date: 2023-07-13 **File**

Number: LTB-L-037178-23

In the matter of: 104, 1065 BRENCHLEY ST SARNIA
ON N7S1R6

Between: Steeves and Rozema Group Landlords

And

Holly Holder Tenant

Steeves and Rozema Group (the 'Landlords') applied for an order to terminate the tenancy and evict Holly Holder (the 'Tenant') because the Tenant entered into an agreement to terminate the tenancy.

A hearing was held to consider this application.

This application was heard by videoconference on June 28, 2023. The Landlord, represented by Laura Groshok, and the Tenant's sister Velma Wells, represented by Andrew Bolter, attended the hearing.

Preliminary Matters:

The issue of whether Velma Wells, who has resided in the rental unit with her sister and her sister's husband, for 6 ½ years, is a tenant or an occupant of the rental unit.

Determinations:

1. The Landlord and Tenant entered into an agreement to terminate the tenancy as of April 30, 2023. The Tenant vacated the rental unit on March 1, 2023, her husband Mike Watson, who was named on the tenancy agreement, has passed away. Velma Wells remains in the unit, claiming she is a tenant.
2. Ms. Wells testified that she has asked to be added as a tenant during the time she was living in the unit. The tenancy agreement was not amended to add Ms.

Wells as a tenant. The Tenant approached staff in February to ask for Ms. Wells to become a tenant. An application to become a tenant was provided. It is Ms. Wells position that she was informed that she was only required to complete the top of the form and no other information on the two-page application. Approximately one month later the form was returned with the required information incomplete.

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3. The office manager testified that Ms. Holder was informed that the form needed to be completed to ensure that Ms. Wells qualified to become a tenant.
4. Considering the fact that it is common practice to complete an application to become a tenant, I find on a balance of probabilities, that Ms. Wells was not informed that she was not required to complete the application form. Considering this fact, the Landlord could not make a reasonable effort to enter into a tenancy with Ms. Wells.
5. Ms. Wells representative points to an N4 served in November 2022, which names Velma Wells as tenant #3. The Landlord's response was that this was a clerical error by a landlord representative and one of the reasons this person no longer works for the Landlord. I find on a balance of probabilities, that considering the fact Ms. Wells is not named as a tenant on the tenancy agreement, that this was a clerical error and does not form the basis of a tenancy.
6. Ms. Wells representative also points to a rent receipt made out the Ms. Wells on March 3, 2023. I do not find this to be compelling evidence. Ms. Wells testimony was that the Tenant vacated the unit on March 1, 2023. The termination date on the N11 from the Tenant was dated for April 30, 2023. It only seems reasonable that the Landlord would accept a rent payment from Ms. Wells, whom they have known over the years, when there was no last month rent deposit and rent was due until the termination date.
7. As Ms. Wells had asked during the occupancy of the rental unit to named as a tenant, and the tenancy agreement does not include her as a tenant, I find Ms. Wells is an occupant of the rental unit.
8. At the hearing, and due to the circumstances regarding Ms. Wells living in the rental unit that will affect Ms. Wells residency, the Landlord has agreed to work with Ms. Wells to move her to a two-bedroom unit located in another building just two or three blocks away. They will attempt to complete this by the end of July 2023, if Ms. Wells qualifies to become a tenant.
9. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Residential Tenancies Act, 2006 (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 Landlord and Tenant is terminated. The Tenant must move out of the rental unit on or before July 31, 2023.
2. If the unit is not vacated on or before July 31, 2023, then starting August 1, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.

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3. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after August 1, 2023.

July 13, 2023

Date Issued

Greg Joy

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 1-888-3323234.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on February 1, 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.

