



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

**Citation:** Peter Bejder v Terry Lee Belanger, 2023 ONLTB 46411

**Date:** 2023-07-10

**File Number:** LTB-L-011601-23

**In the matter of:** 2, 34 Howard Street  
Chesterville ON K0C1H0

**Between:** Peter Bejder Landlord

**And**

Terry Lee Belanger Tenant

Peter Bejder (the 'Landlord') applied for an order to terminate the tenancy and evict Terry Lee Belanger (the 'Tenant') because the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year.

This application was heard by videoconference on June 13, 2023. The Landlord and the Landlord's agent, Melani Bejder, attended the hearing. As of 10:07 am, the Tenant was 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 Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the tenancy is terminated and the Tenant must move out of the rental unit on or before July 21, 2023.
2. On January 14, 2023 the Landlord served the Tenant an N12 Notice of Termination (N12) with the termination date of June 30, 2023. The Landlord's agent testified the Tenant confirmed to her, via telephone, that the Tenant received the N12 on January 14, 2023. The Landlord claims that he requires vacant possession of the rental unit for the purpose of his own residential occupation. The Landlord applied to the Board to terminate this tenancy on February 6, 2023.

3. The Landlord testified that this is a month-to-month tenancy with a monthly rent of \$420.00 paid on the first day of each month, and that the Tenant remains in possession of the rental unit. The Landlord testified further that in April 2023 he had a in-person conversation with the Tenant, and at that time the Tenant advised him that she would vacate the unit at the end of June 2023, and requested the rent deposit be used to pay the rent for the month of June 2023. The Landlord stated that he agreed, and as a result, currently there is no last month's rent deposit for this tenancy.

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### Compensation

4. Section 48.1 of the *Residential Tenancies Act, 2006* (the "Act") requires a landlord to compensate a tenant in an amount equal to one month's rent if the landlord, in good faith, requires the rental unit for the purpose of residential occupation. Section 55.1 of the Act requires this compensation to be paid no later than on the termination date specified in the notice of termination of the tenancy. In addition, subsection 83(4) of the Act provides that no eviction order shall be issued in a proceeding regarding a termination of a tenancy for the purpose of residential occupation unless the landlord has complied with section 48.1 of the Act.
5. The Landlord testified that one month's rent compensation was paid to the Tenant by waiving one month's rent for the month of May 2023. The Landlord testified that this compensation was communicated to the Tenant through a letter delivered to Tenant on January 14, 2023. The Landlord testified further that during an in-person conversation with the Tenant at the end of April 2023, the Tenant acknowledged that compensation would be provided by waiving the Tenant's requirement to pay rent for May 2023. The Landlord noted that the Tenant did not pay rent for the month of May 2023.
6. On the basis of the Landlord's uncontested evidence, I am satisfied that the Landlord paid the Tenant compensation equal to one month's rent in accordance with sections 48.1 and 55.1 of the Act by waiving the rent for the month of May 2023.

### Good Faith

7. The N12 was served pursuant to section 48 of the Act. Section 48(1) requires that, in order to be successful in this application, the Landlord must establish that at the time of the service of the N12 the Landlord required, in good faith, the unit for residential use.
8. 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.

9. 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.
10. The Landlord testified that he has not served any previous N12s over the last two years.
11. The Landlord testified further that as a result of rising interest rates, he can no longer afford to live in the home he currently owns, and consequently, he listed it for sale in May 2023. The Landlord stated he hopes to sell his house during the summer of 2023, and then move into the rental unit. The Landlord noted that the Tenant has been living in the unit since 1988, and his relationship with the Tenant has been good.

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12. Pursuant to s. 72(1)(a) of the Act, the Landlord provided a signed declaration, dated February 5, 2023, declaring his good faith intention to reside in the rental unit for his own personal use for a period of not less than one year. The Landlord stated that his declaration remains valid.
13. On the basis of the Landlord’s uncontested evidence, I am satisfied that the Landlord genuinely intends to use the rental unit for his own personal residence for at least one year. I therefore find that the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for a period of at least one year.

#### Relief from Eviction

14. 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.
15. The Landlord and the Landlord’s agent both testified that they were not aware of any circumstances that should be considered in a determination of whether to provide the Tenant with eviction relief, nor was the Tenant or the Tenant’s representative present at the hearing to provide submissions with respect to the Tenant’s relief from eviction. For these reasons, it would be unfair to the Landlord to grant the Tenant with eviction relief.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before July 21, 2023.
2. If the unit is not vacated on or before July 21, 2023, then starting July 22, 2023, the Landlord 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 Landlord on or after July 22, 2023.

**July 10, 2023**

**Date Issued**

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Frank Ebner  
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 Tenant expires on January 22, 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.