



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

Citation: Michael Gefter v Lisa Marie Long, 2023 ONLTB 47676

Date: 2023-07-07

File Number: LTB-L-018840-23

2023 ONLTB 47676 (CanLII)

In the matter of: 30 Brandy Lane Way West
Newmarket ON L3Y8P7

Between: Michael Gefter Landlord
Tatiana Gefter

And

Lisa Marie Long Tenant

Michael Gefter and Tatiana Gefter (the 'Landlord') applied for an order to terminate the tenancy and evict Lisa Marie Long (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 at 09:00 am.

The Landlord Representative Evgeny Aptekar, the Landlords and the Tenant attended the hearing.

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. However, it would not be unfair to postpone eviction until August 31, 2023
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On February 1, 2023, the Landlord gave the Tenant an N12 notice of termination deemed served on February 6, 2023 with the termination date of April 4, 2023. The Landlord claims

that they require vacant possession of the rental unit for the purpose of their own residential occupation.

4. The Landlord compensated the Tenant an amount equal to one months rent by waiving the rent for the rental period of February 5, to March 4, 2023. This was communicated by email sent on March 6, 2023.
5. The Tenant was required to pay the Landlord \$4,205.78 in daily compensation for use and occupation of the rental unit for the period from April 5, 2023 to June 13, 2023.
6. Based on the Monthly rent, the daily compensation is \$60.95. This amount is calculated as follows: \$1,854.00 x 12, divided by 365 days.
7. The Landlord collected a rent deposit of \$1,800.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$126.01 is owing to the Tenant for the period from August 3, 2018.
8. In accordance with subsection 106(10) of the *Residential Tenancies Act, 2006*, (the 'Act') the last month's rent deposit shall be applied to the rent for the last month of the tenancy.

Good faith

9. On the basis of the sworn declaration filed with the Board and the Landlords' testimony, I find that the Landlords genuinely intend to move into the rental unit after the Tenant vacates and live there for at east one year. Therefore, the Landlords in good faith require possession of the rental unit for the purpose of their residential occupation for a period of at least one year.
10. Specifically, the Landlords both testified that it was their intent to retire and downsize from their current home which intend to sell to assist in funding their retirement. The Landlord Michael Gefter provided a detailed explanation of the preparations he had made for this eventuality. This included the selling his company and signing of a non-compete agreement with the purchaser, all of which were supported by documentation entered in evidence.
11. Tatiana Gefter also testified that the Landlords had been preparing for retirement for the last 10 years and this had been communicated to the Tenant early in the tenancy. She also testified that she had been gradually reducing her hours as a real estate agent. This was supported by income states for the last two ears entered in evidence.
12. The Tenant testified that she hadn't paid the rent since the termination date on the N12 Notice because it was their belief that the Landlords' application was not filed in good faith. She stated that this was the first that the Landlords had communicated their intent to retire and downsize. They further testified that they didn't believe the Landlords were acting in good faith based on not having already listed their current home on the market and owing to N4 and N5 Notices previously served. There is also extensive maintenance required at

the rental unit, testifying that there wasn't even a working shower and that she, during the tenancy, had completed much of the maintenance work herself.

13. In response the Landlord Michael Gefter testified that they hadn't listed their current home as they were not sure when the matter before me would be resolved. As to the allegations regarding the other notices, the Landlord Representative submitted that no other applications had been filed as the Landlords didn't wish to proceed with their claims of damage to the property. As to the maintenance issues he testified that he was aware of some issues, and it was their intent to address them once they gained possession.
14. Having considered the testimony and evidence before I find on the balance of probabilities that the Landlords genuinely intend to move into the rental unit. Regarding their intent to retire, the Landlord's substantiated their testimony with bank statements and the proof of sale of the Landlord's company. In contrast all the Tenant could offer was to claim this was the first she heard of it. I also accept the Landlords' explanation for having not sold their primary residence until having had the matter before me resolved as being reasonable and pragmatic.
15. That said, should the Landlords fail to follow through with their plans to move into the rental unit as they testified the Tenant is encouraged to exercise their rights and file a bad faith application at the Board.

Relief from eviction

16. 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 not be unfair to postpone the eviction until August 31, 2023 pursuant to subsection 83(1)(b) of the Act.
17. The Tenant testified that she is a single mother and requested that she be given to January 2024 to vacate to enable her to secure financing and another rental unit.
18. The Landlord submitted that the Landlords had met all the statutory requirements of the Act and accordingly, were requesting a standard order with an eviction within eleven days of issuance of the Board order.
19. As the Landlords haven't listed their current home as of yet, I am satisfied that it would not be unfair to grant a brief postponement to provide the Tenant the opportunity to secure financing and find another rental unit.

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 August 31, 2023.
2. If the unit is not vacated on or before August 31, 2023, then starting September 1, 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 September 1, 2023.
4. The Tenant shall pay to the Landlord \$2,279.77 which represents compensation for the use of the unit from April 5, 2023 to June 13, 2023, less the rent deposit and interest the Landlord owes on the rent deposit.
5. The Tenant shall also pay the Landlord compensation of \$36.16 per day for the use of the unit starting June 14, 2023 until the date the Tenant moves out of the unit

July 7, 2023

Date Issued

Kelly Delaney

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 March 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.