



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

**Citation:** Aurel Dervishi v Janelle Moore, 2023 ONLTB 47488

**Date:** 2023-07-06

**File Number:** LTB-L-010918-23

**In the matter of:** A, 483 Park  
Peterborough ON K9K4R5

**Between:** Aurel Dervishi Landlord  
Aurel Dervishi

**And**

Janelle Moore Tenant

Aurel Dervishi and Aurel Dervishi (the 'Landlord') applied for an order to terminate the tenancy and evict Janelle Moore (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.

Only the Landlord's and their daughter Hanna Dervishi attended the hearing.

As of 09:30 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.
2. Tenant was in possession of the rental unit on the date the application was filed.
3. On January 30, 2023, the Landlord gave the Tenant an N12 notice of termination deemed served on the same date with the termination date of April 30, 2023. The Landlord claims that they require vacant possession of the rental unit for the purpose of residential occupation by their daughter Hanna Dervishi
4. The Landlord compensated the Tenant an amount equal to one months rent on June 13, 2023 by electronic fund transfer, a screenshot of which was entered in evidence.

5. The Landlord collected a rent deposit of \$1,221.60 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$73.53 is owing to the Tenant for the period from May 1, 2019.
6. 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

7. On the basis of the sworn declaration filed with the Board and the testimony of Hanna Dervishi I find that the Landlords daughter, genuinely intends to move into the rental unit after the Tenants vacate and therefore in good faith requires possession of the rental unit for the purpose of their residential occupation for a period of at least one year.
8. Specifically, Hanna Dervishi testified that having completed a year at Queens University she had transferred to Trent University to complete her degree and intended to live in the rental unit as it afforded her more privacy and would be a closer commute than from her parents home.

#### Relief from eviction

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.
10. Specifically, given the tenant didn't appear for the hearing, although properly notified, I am satisfied to grant relief would prejudice the Landlord.

#### **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 17, 2023.
2. If the unit is not vacated on or before July 17, 2023, then starting July 18, 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 18, 2023.
4. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.

**July 6, 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 January 18, 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.