



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

Citation: Joni Drapeau v Andre Mercier, 2023 ONLTB 46723

Date: 2023-06-30

File Number: LTB-L-074020-22

In the matter of: Upstairs, 123 Calvert Street
Iroquois Falls ON P0K1G0

Between: Brian Drapeau Landlord
Joni Drapeau

Amended: Cameron Boutin

And

Andre Mercier Tenant

Brian Drapeau and Joni Drapeau (the 'Landlord') applied for an order to terminate the tenancy and evict Andre Mercier (the 'Tenant') because:

- the Landlord has 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 May 16, 2023.

The Landlord attended the hearing.

The purchaser, Cam Boutin (CB), attended the hearing.

As of 10:10am 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.

Preliminary Issue: Amend the Application to Include New Landlord

1. At approximately 10:04am, the hearing was called and a person identifying himself as the Landlord, CB, was in attendance. The Landlord was not in attendance.
2. The purchaser, CB, had attended the hearing and submitted he was there to represent the file and take ownership of the application.
3. CB testified that as of February 1, 2023 he had taken possession of the rental unit and was the new Landlord.

4. I explained that the original Landlord who served the Tenant the N12 notice and filed the application with the Board, needed to be present to represent the application at the hearing.
5. I stood the matter down, and instructed CB to contact the Landlord on the application to attend the hearing.
6. At approximately 10:48am the Landlord, Brian Drapeau (BD), attended the hearing.
7. The file was heard uncontested as the Tenant was not in attendance at the time the hearing resumed.
8. Since the purchaser was now the new Landlord as the closing date had passed, I informed the parties that I would amend the application to include CB on the order.
9. The Landlord's application is amended to include Cameron Boutin, as a Landlord and this is reflected in the style of cause.

Determinations:

10. On November 29, 2022, the Landlord gave the Tenant an N12 notice of termination with the termination date of January 31, 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.
11. Pursuant to section 49 of the Act:

Notice, purchaser personally requires unit

49 (1) A landlord of a residential complex that contains no more than three residential units who has entered into an agreement of purchase and sale of the residential complex may, on behalf of the purchaser, give the tenant of a unit in the residential complex a notice terminating the tenancy, if the purchaser in good faith requires possession of the residential complex or the unit for the purpose of residential occupation by,

(a) the purchaser;

Period of notice

(3) The date for termination specified in a notice given under subsection (1) or (2) shall be at least 60 days after the notice is given and shall be the day a period of the tenancy ends or, where the tenancy is for a fixed term, the end of the term.

12. The N12 notice gives 60 days notice. Rent is due on the first of each month.

13. The Landlord has compensated the Tenant an amount equal to one month's rent by January 31, 2023.
14. The main issue to be determined on this application is whether the Landlord has satisfied the "good faith" requirement in s.48(1) of the Act.
15. The rental unit is a duplex with a main floor rental unit and an upper rental unit. When CB took possession of the rental unit, the main floor rental unit was vacant. At the hearing CB testified that he purchased the rental unit from BD and the closing date was January 31, 2023. CB moved into the vacant main floor of the rental unit on February 1, 2023. The upper level Tenant currently occupies the upper rental unit. CB testified that he intends to live in the rental unit for at least a full year.
16. Based on the purchaser's uncontested testimony, I find, on a balance of probabilities, that the purchaser, now the new Landlord, intends in good faith to occupy the rental unit as his permanent personal residence for at least one year.
17. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including whether that the Tenant does not have any young children or persons with special needs the Board needs to consider, and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The Tenant did not attend and so I heard no reasons not to grant the Landlord's application.
18. I have considered all of the evidence presented at the hearing and all of the oral testimony and although I may not have referred to each piece of evidence individually or referenced all of the testimony, I have considered it when making my determinations.
19. This order contains all reasons for the determinations and order made. No further reasons will be issued.

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 11, 2023.
2. If the unit is not vacated on or before July 11, 2023, then starting July 12, 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 12, 2023.

June 30, 2023
Date Issued

 Greg Brocanier
 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 12, 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.

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