



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

Citation: Rise Property Solutions Inc. v Jade Hommerson, 2023 ONLTB 46425

Date: 2023-06-29

File Number: LTB-L-073377-22

In the matter of: Unit 1, 257 JOHN ST S HAMILTON
ON L8N2C9

Between: Rise Property Solutions Inc.

Landlord

And

Jade Hommerson

Tenant

Rise Property Solutions Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Jade Hommerson (the 'Tenant') because the Landlord requires vacant possession of the rental unit in order to do major repairs or renovations to the unit.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on May 18, 2023.

The Landlord's Representative Glenn Gosling and the Tenant attended the hearing.

Determinations:

The Parties to the Application

1. Jade Hommerson ('J.H') moved into the rental at the conception of the tenancy and is the only tenant listed on the lease. Dave Henry ('D.H') moved into the rental unit afterwards as J.H's occupant. While not a tenant D.H was allowed to testify at the hearing and his circumstances as an occupant have been considered in regards to relief from eviction, in addition to the circumstances of the Tenant.

The Application

2. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the tenancy is terminated as of September 30, 2023.
3. The Tenant was in possession of the rental unit on the date the application was filed.
4. On November 22, 2022, the Landlord gave the Tenant an N13 notice of termination, with the termination date of March 31, 2023. The notice was deemed served on November 27, 2022. The Landlord claims vacant possession of the rental unit is required for extensive renovations.
5. The Landlord has obtained building permit 22 101725 00 R9. This building permit states that interior alterations will be made to 257 John Street S. The basement is being lowered, the building is being brought up to fire code including new interior partition walls and fire rated flooring, the ground floor egress is changing, the second-floor egress and access is changing, a third level is being added to the building, the HVAC and plumbing of the entire building are being redone.
6. While the building permit has expired while waiting for a hearing, the Landlord has contacted the city about the delay and taken steps to extend the permits.
7. The renovations that can be completed while the Tenant and D.H still in the unit have started. J.H and D.H testified regarding the significant interference with their lives that has occurred from the Landlord starting renovations while they still occupy the unit.
8. The Tenant agrees that the Landlord will do some of their stated renovations but does not believe they will do all of them or that the Tenant needs to vacate for the renovations to occur. The Tenant introduced into evidence a video of the Landlord's project manager talking to who the Tenant believes is a plumber. The Tenant submits that they are talking about not putting an HVAC system in. Upon review of the video the workers are talking about water heaters. It's also not clear why a plumber would be making decisions regarding a HVAC system. As such, I'm not satisfied that the Landlord plans to deviate from the permit they have obtained.
9. I find that The Landlord in good faith intends to do repairs or renovations that are so extensive that they require a building permit and vacant possession of the rental unit. The Landlord's renovations involve most aspects of the rental building. The floors, walls, plumbing, HVAC, and entrance are all going to be affected by the renovation. The floor is also being lowered in the basement unit directly below the Tenant. I am satisfied that the Tenant cannot live there while the work is completed. Additionally, J.H and D.H testified about the hardship they have experienced living through the renovations that have already began and that hardship will only intensify as the renovations intensify.
10. The Landlord is required to compensate the Tenant in an amount equal to the rent for one month or the period the unit is under repair or renovation, whichever is less, or offer the Tenant another rental unit acceptable to the Tenant, because the residential complex contains less than five residential units and the renovation was not ordered to be carried

out under the authority of this or any other Act. The Landlord paid the Tenant the required compensation on March 28, 2023.

Relief from eviction

11. The Tenant has lived in the rental unit for 18 years, her source of income is Ontario Works, and her community supports are in the neighbourhood. D.H testified that he is not sure how long he and J.H will need to find somewhere new to live but suspects it will take quite a bit of time.
12. The Landlord indicated that they are seeking eviction within 11 days of the issuance of my order, but the Landlord did not introduce into evidence any supporting documentation regarding the cost of delay, and does have the ability to extend their permit.
13. 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 September 30, 2023 pursuant to subsection 83(1)(b) of the Act. This is to provide the Tenant and D.H with time to find new living arrangements as they have lived in the rental unit for a significant period of time. However, I have declined to postpone the eviction any further than September 30, 2023 as the Landlord has already been waiting a significant period of time to complete their renovation project.

Daily Compensation

14. Based on the Monthly rent, the daily compensation is \$22.06. This amount is calculated as follows: $\$670.96 \times 12$, divided by 365 days.
15. The Tenant shall pay 22.06 per day for use and occupation of the rental unit from April 1, 2023 until the Tenant vacates the unit (minus any rent already paid for the period)

Tenant's Right of First Refusal

16. The Tenant has the right to move back into the rental unit when the repairs or renovations are completed at a rent that is no more than what the Landlord could have lawfully charged if there had been no interruption in the tenancy. The Tenant must give the Landlord notice in writing of the Tenant's intent to move back into the unit before vacating the rental unit. The Tenant must inform the Landlord in writing of any change in address.
17. The Tenant can also file a Tenant application with the Board if the Landlord does not allow the Tenant to move back.

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 September 30, 2023.

2. If the unit is not vacated on or before September 30, 2023, then starting October 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 October 1, 2023.
4. The Tenant shall also pay the Landlord compensation of \$22.06 per day for the use of the unit starting April 1, 2023 until the date the Tenant moves out of the unit (minus any rent already paid for the period).
5. The Landlord is to ensure that the Tenant has the Landlord's correct contact information for correspondence.

June 29, 2023

Date Issued

Amanda Kovats

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.