



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

Citation: Elzat Nayup v Mapelola Awoyale, 2023 ONLTB 45995

Date: 2023-06-27

File Number: LTB-L-078954-22

In the matter of: 1892 SEDGEFIELD ROW
London ON N6G0P8

Between: Elzat Nayup Landlord

And

Mapelola Awoyale Tenants
Racheal Ishola

Elzat Nayup (the 'Landlord') applied for an order to terminate the tenancy and evict Mapelola Awoyale and Racheal Ishola (the 'Tenants') 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 May 18, 2023.

The Landlord and the Tenants attended the hearing. The Tenants were supported by Mary Feeley.

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 as of October 31, 2023.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On December 5, 2022, the Landlord gave the Tenant an N12 notice of termination with the termination date of February 28, 2023. The Landlord claims that they require vacant possession of the rental unit for the purpose of residential occupation for themselves.
4. The Landlord filed a declaration indicating that he will reside in the rental unit for at least one year. The Landlord is 25 years old and testified that he worked 7 days a week in order to save up to afford his first home. The Landlord testified that he had no intention of being a landlord and a previous N12 for purchaser's own use was served on the day he put the offer on the rental unit in. Compensation was not paid in accordance with that notice and as such it did not result in a successful application to the Board.

5. The Landlord testified that he is currently renting a basement apartment with his girlfriend, but he is eager to move into his first home as soon as possible.
6. The Tenants submitted that the Landlord increased their rent on the day the N12 notice was served and that speaks to the Landlord wanting to profit off the rental property, not move in.
7. I find that on a balance of probabilities that the Landlord in good faith requires possession of the rental unit for the purpose of their own residential occupation for a period of at least one year. This is because I found the Landlord's testimony credible in that regard as it was offered in a forthright manner and withstood cross examination well.
8. While I accept that the Landlord raised the rent at the same time that he served the N12 notice, the Landlord had only recently become a landlord. A Landlord is entitled to raise the rent in accordance with the Act, and a single instance of a new landlord exercising that right, even in close proximity to the service of the N12, does not satisfy me that they are being untruthful in their stated intention.
9. The Landlord has compensated the Tenant an amount equal to one month's rent by February 28, 2023.

Relief From Eviction

10. The Tenants request that the eviction either be denied or delayed until the end of July 2024.
11. The Tenant Racheal Ishola ('R.I') is on ODSP and has four children who live with her. Those children are aged 12, 17, 20, 27. Both the adult children struggle with psychosis. R.I's youngest child has a individually tailored education plan at her school and the Tenant submits she may have to change schools if evicted. R.I's youngest child will be graduating from that school at the end of July 2024.
12. The Tenant R.I receives ODSP and has struggled to find another comparable affordable units in the area. The Tenants submit that the waitlist for a low-income units in their area is 7-13 years. The Tenant R.I also suffers from mental health challenges.
13. Having reviewed all the circumstances I find that it would be unfair to refuse the eviction. The Landlord is a young man who worked significant hours to obtain his first home and is eager to move in. He is struggling to afford his mortgage and to rent another property. While I have considered the circumstances of the Tenants, I do not find that it would be fair to deny the eviction. Additionally, postponing the eviction will address some of the vulnerabilities of the Tenants and provide them with time to find new living arranges.
14. I do not find the Tenants' request for a postponement of over a year to be fair when balanced with the Landlord's circumstances. However, 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 October 31, 2023 pursuant to subsection 83(1)(b) of the Act. I recognize that the Tenants will face barriers in finding new living arrangements and that is why I have postponed the eviction longer than is typically granted.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated. The Tenants must move out of the rental unit on or before October 31, 2023.
2. If the unit is not vacated on or before October 31, 2023, then starting November 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 November 1, 2023.
4. The Landlord shall apply the rent deposit to the last month of the tenancy and pay the Tenants any outstanding interest on that deposit.

June 27, 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 May 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.