



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

Citation: Xue Mei Yang v Lily Williams, 2023 ONLTB 43038

Date: 2023-06-12

File Number: LTB-L-006051-23

In the matter of: Upper Unit, 2238 KINGSTON RD SCARBOROUGH
ON M1N1T9

Between: Xue Mei Yang Landlord

And

Lily Williams Tenant

Xue mei Yang (the 'Landlord') applied for an order to terminate the tenancy and evict Lily Williams (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.

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 June 1, 2023.

Only the Landlord and their Representative Bryan Rubin attended the hearing.

Determinations:

The Tenant's Absence from the Hearing

1. On the day of the hearing at 9:18a.m. the Tenant emailed the Board and said the following:

“I cannot connect via Zoom and the number I was given for the phone in case isn't working. I have sought out legal council but haven't been able to get a meeting with them til the 15th. Could we remand for a month”

2. At 10:03a.m. a Board staff member from the LTB technical support team indicated that the Tenant had been provided the link and phone number for the hearing room by email. The

staff member indicated that the Tenant had not responded to their email offering assistance.

3. For the following reasons at 10:55a.m. the hearing proceeded in the absence of the Tenant. Other than stating she is having connection problems, the Tenant provided no other details or reason why she was unable to connect. The Tenant had access to email as demonstrated by the email she sent the Board and yet did not respond to the technical support team's email offering assistance. In the event that she had received the wrong call-in information previously, the technical support team provided the Tenant with the

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correct zoom and phone call in information. Many other parties called into the hearing room successfully. There were no other reports of connection problems that day. The Tenant had still not called into the hearing room nearly 2 hours after the start of the hearing.

The Application

4. 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 June 30, 2023.
5. The Tenant was in possession of the rental unit on the date the application was filed.
6. On December 24, 2022, the Landlord gave the Tenant an N12 notice of termination deemed served on December 29, 2022 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 by themselves.
7. The Landlord testified that she is struggling to pay the mortgage where she currently resides. The Landlord is not currently working because she suffers from arthritis. The Landlord testified that her current home is bigger than her needs and upon occupancy of the rental unit she intends to sell her current home to relieve her financial burden. The Landlord testified that she intends to live in the rental unit for the period of at least one year.
8. Based upon the uncontested evidence of the Landlord, I find 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.
9. The Landlord has compensated the Tenant an amount equal to one month's rent by February 28, 2023 by cheque. However, the Landlord testified that she is unaware if the Tenant has cashed the cheque. If the cheque is now stale dated, the Landlord shall provide the Tenant with compensation again.

10. Based on the Monthly rent, the daily compensation is \$59.18. This amount is calculated as follows: \$1,800.00 x 12, divided by 365 days.
11. The Tenant was required to pay the Landlord \$5,503.56 in daily compensation for use and occupation of the rental unit for the period from March 1, 2023 to June 1, 2023. However, the Tenant only paid \$3,600.00 for that period. As such the unpaid compensation for that period is \$1,903.56.
12. There is no last month's rent deposit.
13. The Landlord's filing fee shall not be awarded as this is no fault eviction.
14. 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 June 30, 2023 pursuant to subsection 83(1)(b) of the Act. While the Tenant did not attend the hearing to provide any evidence relevant to my analysis, the eviction is a no-fault eviction and as such I find it is not unfair in the circumstances to postpone the eviction until the end of the month. Additionally, the Landlord indicated that she willing to wait one month to move into the rental unit.

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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 June 30, 2023.
2. If the unit is not vacated on or before June 30, 2023, then starting July 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 July 1, 2023.
4. The Tenant shall pay to the Landlord \$1,903.56, which represents compensation for the use of the unit from March 1, 2023 to June 1, 2023.
5. The Tenant shall also pay the Landlord compensation of \$59.18 per day for the use of the unit starting June 2, 2023 until the date the Tenant moves out of the unit.
6. If the Tenant does not pay the Landlord the full amount owing on or before June 30, 2023, the Tenant will start to owe interest. This will be simple interest calculated from July 1, 2023 at 6.00% annually on the balance outstanding.

7. If the compensation cheque provided to the Tenant on February 28, 2023 is now stale dated, the Landlord is to repay the compensation. For clarity the Landlord is only required to pay the compensation once.

June 12, 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 January 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.