



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

**Citation:** Alicia Clack v Pam Ackers, 2023 ONLTB 43008

**Date:** 2023-06-09

**File Number:** LTB-L-007150-23

**In the matter of:** UPPER, 43 FIFTH ST  
WELLAND ON L3B4Z6

**Between:** Alicia Clack Landlord

**And**

Pam Ackers Tenant

Alicia Clack (the 'Landlord') applied for an order to terminate the tenancy and evict Pam Ackers (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 Judith Callender attended the hearing.

As of 9:31a.m., 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 as of June 30, 2023.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On December 10, 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 by their son.
4. The Landlord testified that she intends for her son to move into the rental unit for a period of at least one year. The Landlord's son Nicholas Clack testified that he is currently living

with a friend and sleeping on air mattress in a spare room. He wants to move into the rental unit to have his own space and intends to live there for at least one year.

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5. Based upon the uncontested evidence of the Landlord, I find that the Landlord in good faith requires possession of the rental unit for the purpose of their child's residential occupation for a period of at least one year.
6. The Landlord has compensated the Tenant an amount equal to one month's rent by February 28, 2023.
7. The Landlord has a rent arrears application currently pending with the Board and as such they withdrew the daily compensation portion of this application.
8. The Landlord collected a rent deposit of \$700.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$84.53 is owing to the Tenant for the period from October 15, 2015 to June 1, 2023 .
9. 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.
10. 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 would not be unfair to postpone the eviction until the end of the month.

**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.

- The Landlord shall apply the rent deposit to the last month of the tenancy and pay the Tenant \$84.53 for the period from October 15, 2015 to June 1, 2023.

**June 9, 2023**

**Date Issued**

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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.

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