



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

**Citation:** Khoshab v Passalent, 2023 ONLTB 39820

**Date:** 2023-05-31

**File Number:** LTB-L-077265-22

**In the matter of:** 1704, 290 Adelaide Street West  
Toronto ON M5V1P6

**Between:** Talayeh Khoshab Landlord

**And**

Jordan Milne Tenants  
Kathryn Passalent

Talayeh Khoshab (the 'Landlord') applied for an order to terminate the tenancy and evict Jordan Milne and Kathryn Passalent (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 17, 2023.

The Landlord's Legal Representative, Payam Javadi and the Landlord attended the hearing.

The Tenant's Legal Representative, Marshall Yarmus and the Tenants attended the hearing.

**Determinations:**

1. On October 30, 2022, the Landlord served the Tenants with an N12 notice of termination under section 48 of the *Residential Tenancies Act 2006* (the "Act") seeking termination of the tenancy for the purpose of residential occupation. The termination date set out in the N12 notice is December 31, 2022.
2. Pursuant to sections 48.1 of the Act, a Landlord must compensate the Tenant an amount equal to one month's rent if the Landlord serves an N12 notice for Landlord's own use.
3. Section 55.1 of the Act states:

55.1 If the landlord is required to compensate a tenant under section 48.1, 49.1, 52, 54 or 55, the landlord shall compensate the tenant no later than on the termination date specified in the notice of termination of the tenancy given by the landlord under section 48, 49 or 50.

4. The Landlord's Legal Representative submits that an e transfer was sent to the Tenants on October 20, 2022, in the amount of \$2350.00 for the required one month's compensation that was not accepted by the Tenant's. He submits that the one-month compensation has been available to the Tenants and the funds are currently sitting in his trust account. He stated that when the e transfer was sent it clearly identified the rental unit address.
5. The Landlord's Legal Representative submits that on December 12, 2022, the Landlord hired a company named TABS to deliver the N12 notice of termination to the Tenants as well as a letter indicting that the Landlord had been trying to reach the Tenants.
6. The Tenant's Legal Representative submits that the Landlord has not provided any evidence that the e transfer was sent to the Tenants on October 20, 2022.
7. He further submits that the N12 notice of termination was served to the Tenants on October 30, 2022 and it does not make sense that the Landlord sent the e transfer prior to the N12 notice of termination being served on the Tenants.
8. He states that the L2 application that was filed with the Board December 14, 2022, clearly states that the Landlord will give the Tenants \$2350.00 in compensation and that the Landlord understands that it must be paid no later than the termination date on the N12 notice. It does not state that the Landlord has given the required compensation to the Tenants.
9. I am not satisfied that the required one month's compensation has been paid to the Tenant's. There was no evidence provided by the Landlord to confirm such transfer.
10. I am persuaded by the Landlord's L2 application submitted to the Board on December 14, 2022, that clearly indicates compensation has not been paid. If the e transfer to the Tenants was sent on October 20, 2022, the L2 application would have included this information and the Landlord would have stated that compensation has been paid.
11. Section 83(4) of the Act states that the LTB cannot issue an eviction order if the landlord has not complied with the compensation requirement.
12. The Landlord failed to compensate the Tenants an equal amount to one month's rent no later than the termination date of December 31, 2022.

13. Therefore, the Landlord's application for termination of tenancy cannot be granted.

**It is ordered that:**

1. The Landlord's application is dismissed.

**May 31, 2023**

**Date Issued**

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**Trish Carson**

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.