



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

Citation: Al-Shammaa v Schertzberg, 2023 ONLTB 40334

Date: 2023-05-29

File Number: LTB-L-022761-22

In the matter of: 92 BIRKETT LANE
BRANTFORD ON N3S0G7

Between: Ameer Al-Shammaa Landlord
LIV (BIRKETT) INC
Shahad Abdul Majeed

And

Bill Schertzberg Tenant

Ameer Al-Shammaa, LIV (BIRKETT) INC and Shahad Abdul Majeed (the 'Landlord') applied for an order to terminate the tenancy and evict Bill Schertzberg (the 'Tenant') because:

- the Landlord requires possession of the rental unit in order to demolish 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 March 20, 2023.

Only the Landlord's legal representative, Francisco Gomez, attended the hearing.

Determinations:

1. On January 31, 2022, the Landlord gave the Tenant an N13 notice of termination with the termination date of May 31, 2022. The Landlord claims vacant possession of the rental unit is required for demolition of the property.

2. The Landlord requires the rental unit to be vacated because the Landlord in good faith intends to demolish it. I am satisfied that the Landlord has obtained the necessary permits for this work.
3. The residential complex contains fewer than five residential units and the demolition was not ordered to be carried out under the authority of any other Act. Therefore, the Landlord is required to compensate the Tenant in an amount equal to one month's rent by the termination date or offer the Tenant another rental unit acceptable to the Tenant.

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4. The Landlord paid the Tenant the required compensation on February 17, 2023 by waiving the Tenants lawful rent for the month of March 2023. The Landlord notified the Tenant by way of letter on February 17, 2023.
5. The Tenant was required to pay the Landlord \$13,486.03 in daily compensation for use and occupation of the rental unit for the period from June 1, 2022 to March 20, 2023.
6. Based on the Monthly rent, the daily compensation is \$46.03. This amount is calculated as follows: \$1,400.00 x 12, divided by 365 days.
7. There is no last month's rent deposit.
8. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Residential Tenancies Act, 2006 (the 'Act'), including the impact of COVID-19 on the parties and, including submissions from the Landlord's legal representative that the Tenant does not have young children or any persons with special needs that the Board needs to consider living with them, and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
9. I have considered all of the evidence presented at the hearing and all of the oral testimony and although I may not have referred to each piece of evidence individually or referenced all of the testimony, I have considered it when making my determinations.
10. This order contains all reasons for the determinations and order made. No further reasons will be issued.

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 9, 2023.

2. If the unit is not vacated on or before June 9, 2023, then starting June 10, 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 June 10, 2023.
4. The Tenant shall pay to the Landlord \$13,486.03, which represents compensation for the use of the unit from June 1, 2022 to March 20, 2023, less the rent deposit and interest the Landlord owes on the rent deposit.
5. The Tenant shall also pay the Landlord compensation of \$46.03 per day for the use of the unit starting March 21, 2023 until the date the Tenant moves out of the unit.

May 29, 2023
Date Issued

Greg Brocanier
Member, Landlord and Tenant Board

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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 December 10, 2023 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.

