



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

Citation: Piotr Lopuszynski v Lauren Martin, 2023 ONLTB 37118
Date: 2023-05-25
File Number: LTB-L-030817-22

In the matter of: C, 81 ERAMOSA ROAD GUELPH
ON N1E4R8

Between: Katarzyna Satora Landlords
Piotr Lopuszynski

And

Lauren Martin Tenant

Katarzyna Satora and Piotr Lopuszynski (the 'Landlords') applied for an order to terminate the tenancy and evict Lauren Martin (the 'Tenant') because the Landlords require vacant possession of the rental unit in order to do major repairs or renovations to the unit.

The Landlords also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on April 20, 2023.

The Landlord, Piotr Lopuszynski, the Landlords' legal representative, Jane Dean ('JD'), and the Tenant attended the hearing.

Determinations:

1. As explained below, the Landlords have proven on a balance of probabilities the grounds for termination of the tenancy in the application.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On May 24, 2022, the Landlords gave the Tenant an N13 notice of termination with the termination date of September 30, 2022. The Landlords claim vacant possession of the rental unit is required for the purpose of doing repairs or renovations so extensive that the Landlords are required to obtain a building permit and the rental unit must be vacant to do the work.
4. The parties before the LTB consented to the following:
 - a. The tenancy will be terminated;

- b. The Tenant has exercised her right of first refusal under section 53 of the Residential Tenancies Act, 2006 (the 'Act'); and
 - c. The Landlords paid the Tenant the necessary compensation by providing the Tenant with a credit on her rental ledger for the month of August 2022.
5. The parties did not agree on how long eviction should be delayed.
 6. The Landlords in good faith intend to do repairs or renovations that are so extensive that they require a building permit and vacant possession of the rental unit. I am satisfied that the Landlords have obtained the necessary permits for this work.
 7. The Tenant has the right to move back into the rental unit when the repairs or renovations are completed at a rent that is no more than what the Landlords could have lawfully charged if there had been no interruption in the tenancy. The Tenant has given the Landlords notice in writing of the Tenant's intent to move back into the unit before vacating the rental unit. The Tenant must inform the Landlords in writing of any change in address.
 8. The Landlords are required to compensate the Tenant in an amount equal to the rent for one month or the period the unit is under repair or renovation, whichever is less; or offer the Tenant another rental unit acceptable to the Tenant, because:
 - a. the Tenant has given the Landlords a written notice that the Tenant intends to move back into the rental unit when the repairs or renovations are completed;
 - b. the residential complex contains less than five residential units; and
 - c. the repair or renovation was not ordered to be carried out under the authority of this or any other Act.
 9. The Tenant was required to pay the Landlords \$6,607.89 in daily compensation for use and occupation of the rental unit for the period from October 1, 2022 to April 20, 2023.
 10. Based on the Monthly rent, the daily compensation is \$32.71. This amount is calculated as follows: $\$995.00 \times 12$, divided by 365 days.
 11. The Landlords collected a rent deposit of \$995.00 from the Tenant and this deposit is still being held by the Landlords. Interest on the rent deposit, in the amount of \$78.17 is owing to the Tenant for the period from December 17, 2017 to April 20, 2023 .
 12. 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.

Section 83 Analysis

13. The Landlords were not opposed to delaying eviction to May 31, 2023. Work has been ongoing in other vacant rental units for several months, but any other vacant rental units cannot be rented out or occupied until all of the work in the building is completed. JD stated that it is very expensive to hold the property without rent revenue. The Landlords wish to proceed with the necessary work as soon as possible. JD stated that the roof has to be opened up, and will remain open for about one month. This may be problematic if the work is taking place into the winter months. The Landlords' estimate is that the entirety of the work will take between 6-10 months to complete.

14. The Tenant's position was that she cannot move out by May 31, 2023 and submitted that eviction should be delayed until October 31, 2023. She said she has applied for other rental units, but has so far not been successful. The Tenant stated that she lost her job and has been working side jobs to try to keep up. She stated that she has been rejected for 4 other rental units in the month of April 2023 alone, because the landlords don't think her income is high enough. The Tenant stated that she may be able to stay with a sibling, but that may require some renovation to the sibling's home.
15. The Tenant has lived in the rental unit for approximately 7 years. She stated that she has a learning disability and anxiety, and that the situation surrounding the notice of termination and this application has been very stressful for her.
16. While the parties' initial submissions about the appropriate delay in eviction were 5 months apart, each party later suggested they could compromise a little more. JD stated that the longest delay the Landlords would agree to would be July 15, 2023, and the Tenant stated that earliest termination date she would agree to would be August 31, 2023.
17. 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 July 31, 2023 pursuant to subsection 83(1)(b) of the Act.
18. I find that this is an appropriate delay in eviction because it will allow the Tenant a reasonable amount of time to arrange for other living accommodation, whether it is at another rental unit or with a family member. It will also allow the Landlords to take possession of the rental unit within a reasonable timeframe, and allow them to conduct the work that will require the roof to be open in advance of the winter months.

It is ordered that:

1. The tenancy between the Landlords and the Tenant is terminated. The Tenant must move out of the rental unit on or before July 31, 2023.
2. If the unit is not vacated on or before July 31, 2023, then starting August 1, 2023, the Landlords 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 Landlords on or after July 1, 2023.
4. The Tenant shall pay to the Landlords \$5,534.72, which represents compensation for the use of the unit from October 1, 2022 to April 20, 2023, less the rent deposit and interest the Landlords owes on the rent deposit. Any amounts paid to the Landlords by the Tenant for this time period shall be deducted from this amount.
5. The Tenant shall also pay the Landlords compensation of \$32.71 per day for the use of the unit starting April 21, 2023 until the date the Tenant moves out of the unit.
6. The Landlords or the Tenant shall pay to the other any sum of money that is owed as a result of this order.

May 25, 2023
Date Issued

Mark Melchers
Member, Landlords 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.