



**Order under Section 94  
Residential Tenancies Act, 2006**

**Citation:** Elliot Lake Retirement Living v Hofstee, 2023 ONLTB 36308

**Date:** 2023-05-22

**File Number:** LTB-L-016832-22

**In the matter of:** 205, 1 Washington Crescent  
Elliot Lake Ontario P5A2W9

**Between:** Elliot Lake Retirement Living Landlord

**And**

Nick Hofstee Tenant

Elliot Lake Retirement Living (the 'Landlord') applied for an order to terminate the tenancy and evict Nick Hofstee (the 'Tenant') because the rental unit is the superintendent's premises and the Tenant's employment as superintendent has ended.

This application was heard by videoconference on May 1, 2023. Only the Landlord's Legal Representative, Douglas Kearns, and his witness, Steve Lafontaine, attended the hearing. As of 9:32 AM, the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the Landlord Tenant Board (the 'Board').

**Determinations:**

1. The Tenant was employed by the Landlord as a superintendent to the residential complex.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. There is no last month's rent deposit.
4. Section 93 of the *Residential Tenancies Act, 2006* (the 'Act') states that if a landlord entered into a tenancy agreement with respect to a superintendent's premises, unless otherwise agreed, the tenancy terminate on the day on which the employment of the tenant is terminated.
5. The Landlord's representative provided persuasive evidence that the Landlord terminated the employment of the Tenant on November 17, 2021. The Landlord's

representative also provided evidence that the Tenant is still in possession of the rental unit at the time of the hearing. The Landlord relied on evidence as well as the affidavit of Steve Lafontaine.

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6. I find that the Landlord has met its burden of proof. I am satisfied that the Tenant was employed as a building superintendent, that he continued to occupy the rental unit designated for a building superintendent to the date of the hearing, and that his employment has been terminated.
7. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

**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.

**May 29, 2023**

**Date Issued**

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Stephanie Kepman

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 December 13, 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.

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