



Order under Section 77 Residential Tenancies Act, 2006

Citation: Djamal Berkat v Zhasmina Nedelcheva, 2023 ONLTB 38323

Date: 2023-05-18

File Number: LTB-L-029568-23

In the matter of: 225 Lieb Terrace
Nepean Ontario K2J6R9

Between: Djamal Berkat Landlord

And

Paulo Silva Dos Santos and Zhasmina
Nedelcheva Tenants

Djamal Berkat (the 'Landlord') applied for an order to terminate the tenancy and evict Paulo Silva Dos Santos and Zhasmina Nedelcheva (the 'Tenants') because the Tenants entered into an agreement to terminate the tenancy.

A hearing was held to consider this application.

This application was heard by videoconference on May 11, 2023. Only the Landlord attended the hearing.

As of 10:20 am, the Tenants were 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. The Landlord and Tenants entered into an agreement to terminate the tenancy as of March 31, 2023 and the Tenants did not move out of the rental unit by the termination date set out in the agreement.
2. The Tenants sent an email confirming the Landlord would have the unit back on April 1, 2023. The Landlord went to the unit and an unidentified person said the

Tenants no longer lived there and that he lived there now. No request was made to sublet or assign the unit and the Landlord did not provide consent for the unit to be occupied by any other people.

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3. The last month rent deposit was applied to March 2023 and not rent has been paid since February 2023.
4. Since the Tenants did not move out of the rental unit by the termination date, the Landlord was required to file the application to obtain vacant possession. Therefore, the Tenants are responsible for paying the Landlord \$201.00 for the application filing fee incurred.
5. 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 Tenants is terminated. The Tenants must move out of the rental unit on or before May 23, 2023.
2. If the unit is not vacated on or before May 23, 2023, then starting May 24, 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 May 24, 2023.
4. The Tenants shall also pay to the Landlord \$201.00, for the cost of filing the application.
5. If the Tenants do not pay the Landlord the full amount owing on or before May 24, 2023, the Tenants will start to owe interest. This will be simple interest calculated from May 30, 2023 at 6.00% annually on the balance outstanding.

May 18, 2023

Date Issued

Greg Joy

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 1-888-3323234.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on November 24, 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.