



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

Citation: Bath v Farkas, 2023 ONLTB 35399

Date: 2023-05-03

File Number: LTB-L-036816-22

In the matter of: 14, 1023 Devonshire Avenue Woodstock
ON N4S 5S1

Between: Baljinder Batth Landlords
Sahab Batth

And

Natasha Farkas Tenant

Baljinder Batth and Sahab Batth (the 'Landlords') applied for an order to terminate the tenancy and evict Natasha Farkas (the 'Tenant') because:

- the Landlords 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 March 6, 2023.

Only the Landlord Sahab Batth and the Landlord's representative Gerald Hodges, licensed paralegal attended the hearing. Navjot Batth also attended the hearing as the Landlord's witness.

As of 9:45 a.m. the Tenant was 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. As explained below, the Landlords have proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the tenancy is terminated as of May 14, 2023.
2. The Tenant was in possession of the rental unit on the date the application was filed.

N12 Notice of Termination

3. On June 24, 2022, the Landlords gave the Tenant an N12 notice of termination with the termination date of September 14, 2022. The Landlords claim that they require vacant possession of the rental unit for the purpose of residential occupation by the Landlord's son, Najvot Batth for a period of at least one year.
4. Pursuant to section 48 of the *Residential Tenancies Act, 2006* (the 'Act'):
 - (1) A landlord may, by notice, terminate a tenancy if the landlord in good faith requires possession of the rental unit for the purpose of residential occupation by,
 - (c) a child or parent of the landlord or the landlord's spouse
 - (2) The date for termination specified in the notice shall be at least 60 days after the notice is given and shall be the day a period of the tenancy ends or, where the tenancy is for a fixed term, the end of the term.
5. In this case, the N12 notice gives the Tenant over 60 days' notice and the termination date is the day a period of the tenancy ends.

Good Faith

6. I find that the Landlords in good faith require possession of the rental unit for the purpose of their son's residential occupation for a period of at least one year.
7. In *Salter v. Beljinac, 2001*, the Divisional Court held that:

“the test of good faith is genuine intention to occupy the premises and not the reasonableness of the landlord's proposal...”
8. Thus, the Landlord must establish that they genuinely intend to move into the unit. The Court also held in *Salter v Beljinac* that the Landlords' motives are “largely irrelevant”.
9. The Landlord testified the unit is a single family home, a townhouse, and it was purchased with the intention for his son and his girlfriend to reside in with the long term plan for his son to take over the mortgage.
10. Navjot Batth testified he intends to live in the unit for a period of at least one year with his girlfriend. The Affidavit signed December 1, 2021 by Navjot Batth states his intention to occupy the unit for at least one year

11. I find that the Landlords proved that it is more likely than not that his son Navjot Batth in good faith requires the rental unit for the purposes of residential occupation for a period of at least one year.

Compensation

12. The Landlord testified he has compensated the Tenant \$1,700.00, an amount equal to one month's rent on August 13, 2022 by dropping the cheque off at the unit to the Tenant.

13. Section 49.1 of the Act states that, "a landlord shall compensate a tenant in the amount equal to one month's rent or offer the tenant another rental unit acceptable to the tenant if the landlord gives the tenant a notice of termination of the tenancy under section 49".

14. Section 55.1 of the Act requires that compensation under section 49.1 be paid to the tenant no later than on the termination date specified in the notice of termination. In the present case, the termination date in the N12 Notice of Termination is September 14, 2022.

15. Based on the uncontested evidence by the Landlord, I find it is more likely than not the Landlords provided compensation to the Tenant an amount equal to one month's rent. The compensation was provided before September 14, 2022.

16. The Landlord testified \$1,700.00 is being held as a last month's rent deposit.

Relief from eviction

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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

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 May 14, 2023.
2. If the unit is not vacated on or before May 14, 2023, then starting May 15, 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 Landlord on or after May 15, 2023.

4. The Landlords shall return the return the balance of the last month's rent deposit, plus interest to the Tenant. As of the date of the hearing, the amount of the rent deposit (\$1,700.00) and interest (\$73.66) the Landlord owes on the rent deposit to the Tenant is a total of \$1,773.50. The Landlords are authorized to deduct from amount owing to the Tenant \$55.89 per day for compensation for the use of the unit starting February 7, 2023 to the date the Tenant moves out of the unit if applicable.
5. The Tenants shall also pay to the Landlords \$55.89 per day for compensation for the use of the unit from May 14, 2023 to the date they move 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 3, 2023
Date Issued

Greg Witt
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 November 15, 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.