



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

Citation: Kim Nguyen v Cathryn Longbottom, 2023 ONLTB 34112

Date: 2023-04-28

File Number: LTB-L-012350-23-IN
LTB-L-075854-22-IN
LTB-L-002410-23-IN
LTB-L-043362-22-IN

2023 ONLTB 34112 (CanLII)

In the matter of: 868 WILLIAM AVE
SUDBURY ON P3A3T2

Between: Chien Nguyen Landlords
Dung Tu
Kim Nguyen

And

Cathryn Longbottom Tenant

Chien Nguyen, Dung Tu and Kim Nguyen (the 'Landlords') applied for an order to terminate the tenancy and evict Cathryn Longbottom (the 'Tenant') because:

- the Landlord has entered into an agreement of purchase and sale of the rental unit and the purchaser in good faith requires possession of the rental unit for the purpose of residential occupation.

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 April 20, 2023.

The Landlord, Kim Nguyen, the Landlord's Legal Representative, Brianna Johns, the Tenant, and the Tenant's Legal Representative, Jessica Pugliese, attended the hearing.

Determinations:

Preliminary Issues:

Two L2 applications

1. At the hearing, the Tenant's Legal Representative raised two preliminary issues. She submitted that the Landlord previously filed an L2 application, bearing file number LTB-L043362-22, which relates to an N12 notice of termination given to the Tenant on July 28, 2022 with a termination date of September 30, 2022. The hearing for this application was adjourned on March 22, 2023. She further submitted the Landlord amended this L2 application to include a new N12 notice, certificate of service, the declaration of the purchaser.

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2. The Tenant's Legal Representative submitted that the same N12 notice of termination, certificate of service, and declaration filed on LTB-L-043362-22 were also filed with a new L2 application bearing file number LTB-L-012350-23.
3. The Landlord's Legal Representative submitted that because the Tenant did not vacate the rental unit based on the first N12 notice served, the purchase of the unit fell through and it was listed again for sale. She submitted a new N12 was given to the Tenant reflecting a termination date of March 31, 2023. She stated the first L2 application was amended to include the new documents as the hearing was scheduled for March 22, 2023.
4. It is unclear to me why a second L2 application was filed and the first L2 application was not withdrawn prior to the hearing being adjourned on March 22, 2023. This will be determined at the next hearing date.

Compensation

5. The Tenant's Legal Representative submitted that the Tenant alleges the compensation to be paid to her in accordance with section 49.1 of the *Residential Tenancies Act, 2006* (the 'Act') was not received.
6. The Landlord's Legal Representative submitted that a bank draft, equivalent to one month's rent, was provided to the Tenant on August 11, 2022. She stated as she was unaware the issue of compensation was going to be raised at the hearing, she was unprepared to provide any evidence to support the compensation was paid.
7. The issue of compensation will be determined at the next hearing date.

L1 Application and third L2 Application – joining of applications

8. The Landlord has filed an L1 application for non-payment of rent and a third L2 application for substantial interference with the Landlord's lawful rights, privileges, and interests. These applications have not been scheduled by the Board.
9. Section 198(1) of the Act states despite the *Statutory Powers Procedure Act*, the Board may direct that two or more applications be joined or heard together if the Board believes it would be fair to determine the issues raised by them together. Section 183 of the Act states the Board shall adopt the most expeditious method of determining the questions arising in a proceeding that affords to all persons directly affected by the proceeding an adequate opportunity to know the issues and be heard on the matter.
10. In consideration of procedural fairness and to be expeditious, I find that all applications filed with the Board with respect to this tenancy shall be joined and heard together at the next hearing date.

It is ordered that:

1. The hearing of this application is adjourned to **May 5, 2023 at 1:00 p.m.** A new notice of hearing will be provided to the parties by the Board.

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2. File numbers **LTB-L-075854-22**, **LTB-L-002410-23**, **LTB-L-043362-22**, and **LTB-L-01235023** are to be joined and heard together.
3. As soon as possible, and no later than **five (5)** days prior to the hearing, both the Landlords and the Tenant shall serve on each other and file with the Board, one (1) .pdf copy of any document, photograph, receipt, recording, or like thing they intend to rely on at the hearing and that they have not already disclosed. The Landlords and the Tenant shall also disclose to each other and file with the Board a list of any witnesses they intend to call at the hearing.
4. Pursuant to the Board's Practice Direction on Evidence, all evidence submitted by the parties must be relevant and not unduly repetitious and shall be organized as follows:

All documents, photographs and other items provided to the other parties and the LTB as evidence **must**:

- a) be readable; and
- b) have consecutively numbered pages; and

c) include a list or table of contents identifying each item in order, and by page number, if more than one item is being submitted.

5. Pursuant to Rule 19.1(3) of the Board's Rules of Practice, a party that does not comply with an order for disclosure may not be permitted to rely on any evidence not properly disclosed.
6. I am seized.

April 28, 2023

Date Issued

Susan Priest

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.