



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

Citation: Dong v Shotaiei, 2023 ONLTB 33030

Date: 2023-04-25

File Number: LTB-L-002693-23

In the matter of: 4802, 1 Yorkville Avenue South
Toronto Ontario M4W1L1

Between: Shu Lan Dong Landlord

And

Mohammad Shotaiei Tenant

Shu Lan Dong (the 'Landlord') applied for an order to terminate the tenancy and evict Mohammad Shotaiei (the 'Tenant') because the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year.

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 4, 2023.

Only the Landlord and their Representative Ivan Yau attended the hearing. The Landlord was assisted with translation by their son Hanchi Zhang ('H.Z'). H.Z is also the intended occupant of the unit.

As of 10:10a.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 Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the tenancy is terminated as of May 6, 2023.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On August 24, 2022 the Landlord gave the Tenant an N12 notice of termination with the termination date of November 20, 2022. The Landlord claims that they require vacant possession of the rental unit for the purpose of residential occupation by their son.
4. The Landlord's son H.Z testified that he wants to move into the rental unit with his fiancé. His fiancé goes to the University of Toronto, which is close to the rental unit.
5. The Landlord also testified that the intention is for her son to move into the rental unit.

6. Based upon the uncontested evidence of the Landlord, I find that the Landlord in good faith requires possession of the rental unit for the purpose of their son's residential occupation for a period of at least one year.
7. On September 9, 2022 the Landlord sent the Tenant compensation by cheque through fed ex mail delivery service. This was prior to the date of termination in the N12 notice. The Tenant refused to sign for the delivery, and the cheque was returned to the Landlord. While the Landlord did comply with the Act, and it was the Tenant who refused to accept the compensation, the Act has a tenant protection focus and I want to ensure that the Tenant is in fact compensated for the personal use eviction. As such the Landlord shall pay the Tenant compensation in the form of one month's rent on or before May 6, 2023.
8. Based on the Monthly rent, the daily compensation is \$87.12. This amount is calculated as follows: \$2,650.00 x 12, divided by 365 days.
9. The Tenant was required to pay the Landlord \$11,761.20 in daily compensation for use and occupation of the rental unit for the period from November 21, 2022 to April 4, 2023. The Landlord submitted that there have been no rent payments during that period. The Landlord also submitted that there has been no rent payments since before that day. However on an L2 application for personal use I can only award daily compensation to the Landlord from the day after the date of termination in the N12 notice.
10. The Landlord collected a rent deposit of \$2,650.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$36.76 is owing to the Tenant for the period from May 20, 2022 to April 4, 2023.
11. 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.
12. 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. Additionally, the Tenant did not attend the hearing to provide any evidence relevant to my analysis.

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 May 6, 2023.
2. If the unit is not vacated on or before May 6, 2023, then starting May 7, 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 7, 2023.
4. The Tenant shall pay to the Landlord \$9,074.44, which represents compensation for the use of the unit from November 21, 2022 to April 4, 2023, less the rent deposit and interest the Landlord owes on the rent deposit.
5. The Tenant shall also pay the Landlord compensation of \$87.12 per day for the use of the unit starting April 5, 2023 until the date the Tenant moves out of the unit.

6. The Landlord shall pay the Tenant compensation for the N12 notice of termination in the amount of one month's rent on or before May 6, 2023.
7. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.

April 25, 2023

Date Issued

Amanda Kovats

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 7, 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.