



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

Citation: Canadian Property Management Group Inc. v Dos Santos, 2023 ONLTB 31305

Date: 2023-04-17

File Number: LTB-L-021782-22

In the matter of: UNIT 1, 147 ELGIN ST HAMILTON
ON L8L4Y1

Between: Edlyn Shih Landlords
Canadian Property Management Group Inc.

And

Corina Dos Santos Tenants
Henry Dos Santos

Edlyn Shih ('E.S'), Canadian Property Management Group Inc. (the 'Landlords') applied for an order to terminate the tenancy and evict Corina Dos Santos, Henry Dos (the 'Tenants') because:

- the Landlords have 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.

This application was heard by videoconference on two dates- January 11, 2023, and February 3, 2023. The Landlord, Edlyn Shih, the Landlord's legal representative, the Landlords' witness, J.Mordeca, the second named Tenant, the Tenant witness A. Koehler, and their support person C. Navario attended the hearings.

Determinations:

1. As explained below, the Landlords have proven on a balance of probabilities the grounds for termination of the tenancy.
2. The Tenants were in possession of the rental unit on the date the application was filed.

3. On March 30, 2022, the Landlords gave the Tenant an N12 notice of termination with the termination date of May 31, 2022. The notice was given on behalf of the Purchaser who claims that they require vacant possession of the rental unit for the purpose of residential occupation by themselves.
4. As of the date of the hearing, the sale of the property had closed and therefore the purchaser was now the Landlord.
5. The Landlords have proven that:
 - the residential complex contains three or fewer units. ○ the Landlord has entered into an agreement of purchase and sale of the residential complex.
 - the purchaser in good faith requires possession of the rental unit for the purpose of their own residential occupation.
6. For the following reasons, I find that the Landlords have compensated the Tenants an amount equal to one month's rent, in accordance with section 48.1 of the *Residential Tenancies Act, 2006* (the 'Act').
7. Section 48.1 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 48".
8. Section 55.1 of the Act requires that compensation under section 48.1 be paid to the tenant no later than on the termination date specified in the notice of termination.
9. The Tenants submitted that they never received the compensation as required by the Act.
10. The Landlords relied on their witness, J. Mordeca to give evidence with respect to how the compensation cheque was served on the Tenants. She is an employee of the property management company and testified that on April 16, 2022, at approximately 5:00pm while she was driving home from work she placed the cheque in a red community mailbox outside of a "Shoppers Drug Mart".
11. Subsection 191(1)(f) deems that a notice or document is sufficiently given to a person other than the Board provided that they mail the document. I find that a cheque falls within the meaning and purview of "document" as defined by the Act.
12. I find the testimony of the Landlords' witness to be creditable and therefore reliable, therefore I find that the compensation had attempted to be given in accordance with the Act.

13. Now although the Act may define that the document was sufficiently given, it does not resolve the issue of whether the compensation was in the Tenants' possession. Pursuant to section 83(4) of the Act, the Board shall not issue an eviction order if the landlord has not complied with paying the compensation. I stood the matter down at the hearing so that the Landlords could attempt, once again, to pay the Tenants the compensation. I received confirmation by the Tenants that they had received the compensation from the Landlords. Therefore, I find that the Landlord has compensated the Tenant an amount equal to one month's rent as required by the Act.
14. I find that the Landlords have compensated the Tenants an amount equal to one month's rent as required by the Act.
15. The Tenants did not dispute the Landlords' good faith intention, rather was seeking relief from eviction pursuant to section 83 of the Act.
16. 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 not be unfair to postpone the eviction until May 31, 2023 pursuant to subsection 83(1)(b) of the Act.
17. E.S testified that she is currently living in the basement of her parents' house. Living with her is her mom, dad, newborn baby, and her boyfriend.
18. Living with the Tenants are A.Kohler, who is 53, her daughter who is 23, her granddaughter, who is 4, the Tenant who is 58, and his son, who is 21. They have been living in the rental unit for approximately 4 years.
19. The second named Tenant and Ms. Kohler both receive ODSP and her 23-year-old daughter receives Ontario Works, and Ontario Child Tax Benefit. The Tenants testified that they are having a hard time finding another place as a result of their income and poor credit.
20. I acknowledge the fact that the Landlord has been waiting since March 2022 to obtain possession of the unit that they purchased. However, their current housing situation is not in jeopardy, unlike that of the Tenant, and I accept the Tenant's evidence regarding the significant challenges she will experience as a result of the eviction.
21. Considering the circumstances of both parties, I find the termination date to be reasonable in the circumstances- it provides some additional time for the Tenants to find another home while the delay is not so extensive that it will severely prejudice the Landlords.

It is ordered that:

1. The tenancy between the Landlords and the Tenants is terminated. The Tenants must move out of the rental unit on or before May 31, 2023.

2. If the unit is not vacated on or before May 31, 2023, then starting June 1, 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 June 1, 2023.

April 17, 2023

Date Issued

Curtis Begg

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 October 29, 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.