



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

Citation: Rook v Linseman, 2023 ONLTB 30339

Date: 2023-04-12

File Number: LTB-L-018306-22

In the matter of: Upper Unit, 127 ELMWOOD AVE E LONDON
ON N6C1J7

Between: David Rook, Krista Rook Landlord

And

Alisha Dawn Linseman Tenant

David Rook and Krista Rook (the 'Landlord') applied for an order to terminate the tenancy and evict Alisha Dawn Linseman (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 November 2, 2022. The Landlords, Landlord's legal representative C. Dawdy and the Tenant attended the hearing.

Determinations:

1. This L2 application was filed on March 30, 2022.
2. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. Therefore, the Tenancy is terminated as of April 30, 2023.

N12 Notice of Termination - Landlord's Own Use

3. On March 25, 2022, the Landlords gave the Tenant an N12 notice of termination deemed served on that date with the termination date of May 31, 2022. The Landlords claim that they

require vacant possession of the rental unit for the purpose of residential occupation by their son C. Rook.

4. The Tenant was in possession of the rental unit on the date the application was filed

Good faith

5. 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.
6. Both the Landlord K. Rook and her son testified to the circumstances of parents helping their son get a head start with affordable housing as he ventures into adulthood. On cross examination, K. Rook was questioned as to why they did not offer a vacant unit to their son when it was available. She testified that a much larger unit was vacant for a brief period of time. That unit was a much larger, 3-bedroom unit, which is not suitable for their son who is a single 23-year-old, and who only requires a one-bedroom unit. The Landlords' son C. Rook testified about his work as a paramedic and his intentions to gain independence by living on his own. This is made feasible by the affordable rental rate his parents have offered him for the unit. C. Rook testified that he intends to live in the unit for at least one year, likely longer, while he saves for a down payment to buy a home of his own.
7. The Tenant testified that she does not believe that the Landlords' son will move into the unit because she asserts that the Landlord K. Rook was dishonest with the Tenant at the beginning of the tenancy about the type of work that the Landlord did. She did not challenge the testimony of the Landlord's son C. Rook.
8. The Tenant testified that she does not want to move out of the unit. She has unspecified health issues that affect her mobility to some degree and packing her belongings and moving would be a challenge for her physically and financially. In the event of an order to terminate the tenancy, the Tenant is seeking a delay until September 2023.
9. I am satisfied on a balance of probabilities that the intended occupant C. Rook intends to move into the unit for a period of at least one year. I found the witnesses to be sincere and direct when queried about the intentions of C. Rook and I am satisfied that C. Rook's intentions are bona fide.
10. The Landlords have compensated the Tenant an amount equal to one month's rent by May 31, 2022.

Daily Compensation

11. The Tenant was required to pay the Landlord \$5,892.04 in daily compensation for use and occupation of the rental unit for the period from June 1, 2022 to November 2, 2022.

12. Based on the Monthly rent, the daily compensation is \$38.26. This amount is calculated as follows: \$1,163.80 x 12, divided by 365 days.
13. The Landlord collected a rent deposit of \$1,150.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$22.04 is owing to the Tenant for the period from August 2, 2020 to November 2, 2022.
14. 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.

Relief from eviction

15. The Tenant lives alone. She is employed. She has some mobility issues that will make moving somewhat of a challenge.
16. The Landlords' son is currently living with his parents and as such, I find that there is less prejudice to the Landlords and their son by delaying the termination of the tenancy.
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 not be unfair to postpone the eviction until April 30, 2023 pursuant to subsection 83(1)(b) of the Act.

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 April 30, 2023.
2. If the unit is not vacated on or before April 30, 2023, then starting May 1, 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 1, 2023.
4. The Tenant shall pay to the Landlord \$4,720.00, which represents compensation for the use of the unit from June 1, 2022 to November 2, 2022, less the rent deposit and interest the Landlord owes on the rent deposit.
5. The Tenant shall also pay the Landlord compensation of \$38.26 per day for the use of the unit starting November 3, 2022 until the date the Tenant moves out of the unit.
6. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.

April 12, 2023

Date Issued

Donna Adams

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 1, 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.