



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

**Citation:** Mohammad v Al Hassani, 2023 ONLTB 30517

**Date:** 2023-04-11

**File Number:** LTB-L-024243-22

**In the matter of:** #2, 1380 POPE ST  
LASALLE ON N9J3S9

**Between:** Imad Mohammad Landlord

**And**

Ibtisam Jawad Tenants  
Zahraa Al Hassani

Imad Mohammad (the 'Landlord') applied for an order to terminate the tenancy and evict Ibtisam Jawad and Zahraa Al Hassani (the 'Tenants') because:

- the Landlord 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 January 23, 2023.

The Landlord attended the hearing and was self-represented.

As of 9:55 a.m., the Tenants were 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. The rental unit is located in a detached house. The Landlord occupies the other unit. The Landlord requests an order terminating the tenancy so that he can occupy the unit for personal use.
2. For reasons that follow, the application is granted.
3. I accept the Landlord's unchallenged testimony that the following is true:
  - a. The Tenants moved into the unit approximately two years earlier. The tenancy is a month-to-month tenancy.
  - b. An N12 notice of termination was delivered to the Tenants on April 1, 2022 informing them that the Landlord intends to move into the rental unit and occupy it for at least one year.
  - c. The date of termination identified on the N12 was May 31, 2022.

- d. The monthly rent is \$1,000.00.
- e. The Landlord paid the Tenants \$1, 000.00 compensation by cash on April 5, 2022.
- f. The Tenants have yet to vacate the rental unit.

### Good faith

4. The evidence supports a finding that the Landlord issued an N12 notice of termination indicating that the Landlord, in good faith, intends to occupy the unit for residential purposes.
5. Subsection 48(1)(a) of the *Residential Tenancies Act, 2006* (the 'Act') provides that a landlord may terminate a tenancy by first providing notice to the tenant informing them that the landlord in good faith requires possession of the unit for residential occupation for a period of at least one year.
6. The test of good faith is outlined in a series of judicial decisions. In *Feeney v. Noble*, 1994 CanLII 10538 (ON SC), the Court held that the test of good faith is a genuine intention to occupy the premises and not the reasonableness of the Landlord's proposal. This principle was upheld in *Salter v. Beljinac*, 2001 CanLII 40231 (ON SCDC), where the Court held that the "good faith" requirement means that the Landlord sincerely intends to occupy the rental unit. Although the Landlord may have other motives for selecting a particular rental unit, these would not affect the good faith of the Landlord's notice.
7. In *Fava v. Harrison*, 2014 ONSC 3352, the Divisional Court added that while the motives of the Landlord are "largely irrelevant", as determined in *Salter*, the Board may consider the conduct and motives of the Landlord to draw inferences as to whether the Landlord desires, in good faith, to occupy the residential unit.
8. The Landlord testified that he will be moving into the rental unit once the Tenants vacate the unit, which he estimates to be within a period of one month. The Landlord testified that the reason he intends to move into the unit is because he has three children and his family's needs have changed such that he requires more room to take care of his family in than is available in the unit they occupy.
9. Submitted into evidence by the Landlord in support of his testimony was an N12 notice dated April 1, 2022 with a termination date of May 31, 2022 and a Certificate of Service affirmed on April 1, 2022 confirming service of the N12 Notice on April 1, 2022. Also submitted into evidence was a Declaration affirmed on April 1, 2022.
10. I find that, based on the uncontested evidence presented at the hearing, the Landlord in good faith requires possession of the rental unit for his own use as indicated in the N12 notice.

### Compensation

11. The evidence supports a finding that the Landlord paid the one-month compensation to the Tenants in compliance with the Act.

12. Subsections 48.1, 55.1 and 83(4), when read together, require that landlords who terminate a tenancy for their own use must provide compensation no later than the termination date indicated on the notice, and the Board is prohibited from ordering an eviction if a landlord had not complied with these provisions
13. There is no dispute that the Landlord paid \$1, 000.00 by cash to the Tenants in and around April 5, 2022, which is consistent with the requirements set out in subsections 48.1 and 55.1 of the Act and, as such, would not be grounds for refusing to order an eviction under subsection 83(4).
14. Based on the uncontested evidence, I find that the Landlord's provision of the cash payment constitutes payment of the required compensation.

### Relief from Eviction

15. Subsection 83 (2) of the Act requires the Board to review all of the circumstances and consider whether or not it should exercise its powers under subsection 83(1). Having considered the circumstances, I find that it would not be unfair to postpone the eviction pursuant to subsection 83(1)(b) until May 31, 2023.
16. Although the Tenants did not attend the hearing to provide direct evidence on how an eviction would impact them, the Landlord testified that a delayed eviction would not prejudice him. In response to questions posed by the Board, the Landlord had limited knowledge of the Tenants employment or health status, but confirmed that as far as he knew the Tenants lived without children or other occupants. He reiterated they had lived in the unit for approximately 2 years.
17. Considering all of the evidence and, notwithstanding the Landlord in good faith requires possession of the rental unit for his own use, I find that, pursuant to subsection 83(1)(b), it would not be unfair to the Landlord to delay the eviction until May 31, 2023. The Tenants have lived in the unit for approximately 2 years, a length of time from which I infer they have a significant connection to the community such that they would need time to seek alternative accommodation which I think is fair and appropriate.

### **It is ordered that:**

1. The tenancy between the Landlord 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 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 June 1, 2023.

**April 11, 2023**

**Date Issued**

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Emile Ramlochan

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 21, 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.