



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

Citation: Silva v Al-samaneh, 2023 ONLTB 30424

Date: 2023-04-

07 File Number: LTB-L-
032683-22

In the matter of: 627 GLEN FORREST BLVD
WATERLOO ON N2L4K1

Between: Sean Silva Landlord

And

Jihad Al-samaneh Tenant
Siham Al-samaneh

Sean Silva (the 'Landlord') applied for an order to terminate the tenancy and evict Jihad Alsamaneh and Siham Al-samaneh (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.

This application was heard by videoconference on February 9, 2023.

The Landlord, Landlord's representative John Rennie and the Tenant attended the hearing.

Determinations:

1. For the reasons below I find that Sean Silva ('SS') in good faith requires the rental unit for the purpose of residential occupation and that the Landlords complied with all legislative requirements in this application. Having considered all of the circumstances I find that it is not unfair to delay eviction until May 07, 2023.
2. The Tenant is in possession of the rental unit.
3. This is a month-to-month tenancy.

4. The Landlord collected a rent deposit of \$3,000.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$94.56 is owing to the Tenant for the period from May 1, 2021 to February 9, 2023 .
5. 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.
6. The Landlord has compensated the Tenant an amount equal to one month's rent by July 31, 2022. This was paid on July 11, 2022 via email transfer, and it was successfully deposited in the Tenant's account.
7. On May 31, 2022, the Landlord gave the Tenant an N12 notice of termination with the termination date of July 31, 2022. The notice was given on behalf of the Purchaser who

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claims that he requires vacant possession of the rental unit for the purpose of residential occupation.

8. Pursuant to section 72(1) of the *Act*, the Landlord provided a signed declaration from the purchasers dated June 09, 2022 stating that he requires the rental unit for his own personal residential use for a period of at least one year.

Good Faith:

9. The Tenant testified that he believes the purchase-sale agreement is just an arrangement between the Landlord and the purchaser to get him out of the unit. The Tenant claims that the Landlord gave him the N12 notice in bad faith because the purchaser paid only a \$500.00 down payment as per the sale agreement, there are no sales agents or lawyers involved in this property sale, and the Landlord amended the purchase-sale agreement to request a vacant unit for the purchaser's use.
10. The Landlord testified that the \$500.00 is a purchase-sale agreement deposit, not the 5% minimum required down payment to qualify for a mortgage. The Landlord explained that the purchaser confirmed that he needed the unit vacant for his use, which was why the purchase-sale agreement he amended the N12 notice a week before he gave it to the Tenant. The Landlord claims that the purchaser wants to move in immediately, and they have agreed to complete the house's final sale on March 15, 2023.
11. The issue to be determined by the Board is whether the Landlord has satisfied the "good faith" requirement set out in subsection 48(1) of the Act which provides:

A landlord may, by notice, terminate a tenancy if the landlord in good faith requires possession of the rental unit for the purpose of residential occupation for a period of at least one year by,

- (a) the landlord;

12. In *Salter v. Beljinac*, 2001 CanLii 40231 (ON SCDC), the Divisional Court determined that a Landlord satisfied the “good faith” requirement to terminate a tenancy where the person identified in the notice of termination genuinely intends to occupy the rental unit for residential purposes.
13. Based on the evidence and submissions, on a balance of probabilities, I find that the Landlord proved that it is more likely than not that the purchasers genuinely intend to use the rental unit for their residence and that the purchasers in good faith, require possession of the rental unit for their residence. The Landlord’s oral evidence was forthcoming and consistent. The Tenant did not provide any evidence challenging the Landlord’s evidence respecting the purchasers’ requirement to use the rental unit for residential purposes.

Relief from eviction

14. Pursuant to section 83 of the *Act*, I am required to consider all of the circumstances in the case including both parties’ situations to determine if it would be appropriate to grant relief.
15. The Tenant requested that eviction be delayed by a few months as he occupies the rental unit with their four children, which include a ten-year-old, a fourteen-year-old, and two adult children. The ten-year-old and the fourteen-year-old are at school. The Tenant testified that their household would take some time to find a suitable place for all of them with their limited income.
16. The Landlord’s position is that the Tenants received notice to vacate on May 31, 2022 and have had six months to find alternative housing. They submit that the Tenants have had plenty of time and have not taken sufficient steps to locate somewhere else to live. The closing date is March 15, 2023 and they cannot extend the sale to any further date. The Landlords seek an immediate eviction.
17. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Residential Tenancies Act (the “Act”) and find that it would not be unfair to postpone the eviction until May 07, 2023 pursuant to subsection 83(1)(b) of the Act. Postponing the Tenants’ eviction until May 07, 2023 will provide the Tenants with more time to secure another rental unit given their limited income.

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 7, 2023.
2. If the unit is not vacated on or before May 7, 2023, then starting May 8, 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 8, 2023.

4. The Tenant shall pay to the Landlord \$27,517.81, which represents compensation for the use of the unit from August 01, 2022 to May 07, 2023, less any rent paid by the Tenant, the rent deposit and interest the Landlord owes on the rent deposit.
5. As of the date of the hearing, the amount of the rent deposit and interest the Landlord owes on the rent deposit exceeds the amount the Landlord is entitled to by \$(2,908.56).
6. The Tenant shall pay the Landlord \$98.63 per day for compensation for the use of the unit starting May 08, 2023 to the date the Tenant moves out of the unit.
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 7, 2023

Percy Laryea

_____ **Date Issued**

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 8, 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.