



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

Citation: Fernando v Ghalib, 2023 ONLTB 30205

Date: 2023-04-06

File Number: LTB-L-033118-22

In the matter of: 312, 60 SPRINGHURST AVE OTTAWA
ON K1S5V7

Between: Roshan Fernando Landlord

And

Sahar Ghalib Tenant

Roshan Fernando (the 'Landlord') applied for an order to terminate the tenancy and evict Sahar Ghalib (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 February 9, 2023.

Only the Landlord attended the hearing.

As of 9:50am, 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. This is an L2 application based on an N12 to terminate the tenancy and evict the Tenant because the Landlord's spouse requires possession of the rental unit for the purpose of

residential occupation. The termination date on the N12 was August 31, 2022 and the Tenant was handed the N12 on June 02, 2022.

2. The Tenant is in possession of the rental unit.
3. This is a month-to-month tenancy.
4. The Landlord is not holding a last month's rent deposit.
5. The Landlord paid the Tenant compensation equal to one month's rent on June 02, 2022. This was paid by crediting the Tenant's arrears of rent.

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6. The Landlord in good faith requires possession of the rental unit for the purpose of residential occupation.
7. Pursuant to section 72(1) of the *Act*, the Landlord submitted into evidence his affidavit and his-laws affidavits all dated June 28, 2022 stating that he requires the rental unit for his spouse's parent's residential purposes for a period of at least one year.
8. 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,

(c) a child or parent of the landlord or the landlord's spouse;

9. The onus is on the Landlord to establish that the Landlord in good faith requires the rental unit for the purpose of residential occupation.
10. At the hearing, the Landlord submitted that the property where he resides is small for him, his wife, his two children, aged fourteen and eleven years, and his in-laws to live together. The Landlord submitted that his in-laws have been residing with him for the last two years and had to wait until the tenancy agreement with the Tenant expired before serving the N12 notice. The Landlord submitted that now that the tenancy agreement is month-to-month, he requires his in-laws to reside in this rental unit immediately for at least twelve months.
11. Based on the Landlord's uncontested evidence, I am satisfied on a balance of probabilities that the Landlord, in good faith, requires vacant possession of the rental unit and that he genuinely intends to occupy the rental unit for at least one year.

Section 83 Considerations

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. The Landlord submitted that the Tenant was aware of today's hearing, and personally served her a copy of the noticed of hearing. Further, the Landlord was not aware of any of the Tenant's circumstances for me to consider denying or delaying eviction.

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 17, 2023.
2. The Tenant shall pay to the Landlord \$8,204.38, which represents compensation for the use of the unit from September 1, 2022 to April 6, 2023 (less any rent paid by the Tenant from September 1, 2022 to April 6, 2023).

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3. The Tenant shall also pay to the Landlord \$37.81 per day for compensation for the use of the unit from April 7, 2023 to the date the Tenant moves out of the unit.
4. If the Tenant does not pay the Landlord the full amount owing on or before April 17, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 18, 2023 at 5.00% annually on the balance outstanding.
5. If the unit is not vacated on or before April 17, 2023, then starting April 18, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
6. 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 April 18, 2023.

April 6, 2023

Date Issued

Percy Laryea

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 18, 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.