



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

Citation: Li v Joseph, 2023 ONLTB 28812

Date: 2023-04-05

File Number: LTB-L-044235-22

In the matter of: Basement Unit, 35 CROWN ACRES CRT SCARBOROUGH
ON M1S4W1

Between: Baige Li Landlord

And

Tom Joseph Tenant

Baige Li (the 'Landlord') and Heye Liu applied for an order to terminate the tenancy and evict Tom Joseph (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 March 22, 2023.

Only the Landlord, his spouse Heye Liu and the Landlord's Representative, Cuiwen Hu attended the hearing. 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. 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 terminates having considered all the circumstances.
2. The Tenant was in possession of the rental unit on the date the application was filed.

N12 Notice of Termination:

Landlord's Own Use:

On August 1, 2022, the Landlord gave the Tenant an N12 notice of termination deemed served on August 2, 2022 with the termination date of September 30, 2022. The Landlord claims that he require vacant possession of the rental unit for the purpose of residential occupation by himself.

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3. The Landlord in good faith requires possession of the rental unit for the purpose of his own residential occupation for a period of at least one year.
4. The Landlord has compensated the Tenant an amount equal to one month's rent by September 30, 2022 in lieu of a credit applied to the Tenant's August 2022 rent charges as supported by the Landlord written communication to the Tenant dated August 2, 2022.

Daily compensation, and rent deposit

5. The Tenant was required to pay the Landlord \$3,332.98 in daily compensation for use and occupation of the rental unit for the period from October 1, 2022 to March 22, 2023. The Tenant has not paid anything after August 31, 2022. Under this application, the Board only has jurisdiction to order per diem compensation after the termination date on the Notice which in this case starts October 1, 2022.
6. Based on the monthly rent, the daily compensation is \$19.27. This amount is calculated as follows: \$586.00 x 12, divided by 365 days.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. There is no last month rent deposit still held by the Landlord because it was applied to the Tenant's rent charges for July 2021 rent period. The Landlord reasonably applied the deposit to that month as they had an agreement to end the tenancy on July 31, 2021 but the Tenant did not vacate.

Relief from eviction

9. 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. This is a longstanding tenancy but the Tenant did not attend to make submissions with respect to his circumstances.

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 16, 2023.
2. If the unit is not vacated on or before April 16, 2023, then starting April 17, 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 April 17, 2023.
4. The Tenant shall pay to the Landlord \$3,332.98, which represents compensation for the use of the unit from October 1, 2022 to March 22, 2023.

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5. The Tenant shall also pay the Landlord compensation of \$19.27 per day for the use of the unit starting March 23, 2023 until the date the Tenant moves out of the unit.
6. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
7. If the Tenant does not pay the Landlord the full amount owing on or before April 16, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 17, 2023 at 6.00% annually on the balance outstanding.

April 5, 2023
Date Issued

Sandra Macchione
Member, Landlord and Tenant Board15 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.