



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

**Citation:** Jarata v Black, 2023 ONLTB 28941

**Date:** 2023-04-04

**File Number:** LTB-L-044193-22

**In the matter of:** Basement, 310 TIMBERBANK BLVD  
SCARBOROUGH ON M1W2J4

**Between:** Joven Jarata Landlord  
Mary joy Retuta  
Tony Flor rico retuta  
Vida Gail

**And**

Kevin Black Tenant

Joven Jarata, Mary joy Retuta, Tony Flor rico retuta and Vida Gail (the 'Landlord') applied for an order to terminate the tenancy and evict Kevin Black (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 at 09:00 am.

Only the Landlord Representative Agatha Small and the Landlord Vida Gail attended the hearing.

As of 09:30 am, 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.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On June 23, 2022, the Landlord gave the Tenant an N12 notice of termination deemed served on the same date with the termination date August 31, 2022. The Landlord claims that they require vacant possession of the rental unit for the purpose of their own residential occupation for at least one year

4. The Landlord has compensated the Tenant an amount equal to one month's rent on August 15, 2022.

Good faith

5. On the basis of the sworn declaration filed with the Board and the Landlord testimony, I find that the Landlord genuinely intends to move into the rental unit after the Tenant vacates and therefore in good faith requires possession of the rental unit for the purpose of their own residential occupation for a period of at least one year.
6. The Tenant was required to pay the Landlord \$4,671.03, in daily compensation for use and occupation of the rental unit for the period from November 1, 2022 to March 22, 2023.
7. Based on the Monthly rent, the daily compensation is \$23.01. This amount is calculated as follows:  $\$700.00 \times 12$ , divided by 365 days.
8. There is no last months rent deposit.

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.
10. Specifically, given the Tenant failed to appear, although properly notified, I am satisfied that the Landlord would be prejudiced should relief be granted.

**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 15, 2023.
2. If the unit is not vacated on or before April 15, 2023, then starting April 16, 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 16, 2023.
4. The Tenant shall pay to the Landlord \$4,671.03, which represents compensation for the use of the unit from September 1, 2022 to March 22, 2023, less the rent deposit and interest the Landlord owes on the rent deposit.
5. The Tenant shall also pay the Landlord compensation of \$23.01 per day for the use of the unit starting March 23, 2023 until the date the Tenant moves out of the unit.

**April 4, 2023**

**Date Issued**

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Kelly Delaney  
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 16, 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.

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