



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

Citation: Patel v Fleres, 2023 ONLTB 28931

Date: 2023-04-03

File Number: LTB-L-043632-22

In the matter of: 69 BENSURST CRES
BRAMPTON ON L7A5A5

Between: Deveshkumar Patel Landlord
Gayank Patel

And

Cheryl Patykewich Tenant
Katrina Fleres
Mary D. Jeffrey

Deveshkumar Patel and Gayank Patel (the 'Landlord') applied for an order to terminate the tenancy and evict Cheryl Patykewich, Katrina Fleres and Mary D. Jeffrey (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 James Hill, and the Landlords 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 August 03, 2022, the Landlord gave the Tenant an N12 notice of termination deemed served on the same date with the termination date October 31, 2022. The Landlord claims that they require vacant possession of the rental unit for the purpose of residential occupation by their son Gayank Patel.

4. The Landlord has compensated the Tenant an amount equal to one month's rent on August 16, 2022.

Good faith

5. On the basis of the sworn declaration filed with the Board and the Landlord son's testimony, I find that the Landlord's son 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 son's residential occupation for a period of at least one year.
6. The Tenant was required to pay the Landlord \$11,338.70, 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 \$79.85. This amount is calculated as follows: \$2,428.80 x 12, divided by 365 days.
8. The Landlord collected a rent deposit of \$4,800.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
9. Interest on the rent deposit, in the amount of \$251.73 is owing to the Tenant for the period from March 03, 2019 to March 22, 2023.

Relief from eviction

10. 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.
11. 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 14, 2023.
2. If the unit is not vacated on or before April 14, 2023, then starting April 15, 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 15, 2023.
4. The Tenant shall pay to the Landlord \$6,286.97, which represents compensation for the use of the unit from November 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 \$79.85 per day for the use of the unit starting March 23, 2023 until the date the Tenant moves out of the unit.

6. If the Tenant does not pay the Landlord the full amount owing on or before April 14, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 15, 2023 at 6.00% annually on the balance outstanding.

April 3, 2023

Date Issued

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 15, 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.