



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

**Citation:** Vanhevel v Kane, 2023 ONLTB 27868

**Date:** 2023-03-27

**File Number:** LTB-L-022381-22

**In the matter of:** UPPER ROOM, 256 ST GEORGE ST  
MITCHELL ON N0K1N0

**Between:** Stephen Vanhevel Landlord

**And**

Kody Kane Tenant

Stephen Vanhevel (the 'Landlord') applied for an order to terminate the tenancy and evict Kody Kane (the 'Tenant') because:

- the Landlord requires possession of the rental unit in order to convert the unit to a nonresidential use.

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 21, 2023.

Only the Landlord's representative, Hayley Bettles, attended the hearing.

**Determinations:**

1. On April 12, 2022, the Landlord gave the Tenant an N13 notice of termination with the termination date of August 31, 2022. The Landlord claims vacant possession of the rental unit is required for conversion to non residential use.

2. The Landlord requires the rental unit to be vacated because the Landlord in good faith intends to convert it to a non-residential use. I am satisfied that the Landlord has taken all reasonable steps to obtain the necessary permits for this work.
3. At the hearing the Landlord's representative submitted that the rental unit is zoned commercial, however the Landlord and the Tenant had a verbal agreement for the Tenant to rent the unit.
4. The Landlord submitted into evidence and order from the municipality to comply with the zoning of the rental unit and have the Tenant vacate the unit.

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5. The residential complex contains fewer than five residential units. Therefore, the Landlord is required to compensate the Tenant in an amount equal to one month rent by the termination date or offer the Tenant another rental unit acceptable to the Tenant.
6. The Landlord paid the Tenant the required compensation on April 12, 2022.
7. The Tenant was required to pay the Landlord \$2,860.27 in daily compensation for use and occupation of the rental unit for the period from September 1, 2022 to February 21, 2023.
8. Based on the Monthly rent, the daily compensation is \$16.44. This amount is calculated as follows: \$500.00 x 12, divided by 365 days.
9. There is no last month's rent deposit.
10. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Residential Tenancies Act, 2006 (the 'Act'), including the impact of COVID-19 on the parties and, including submissions from the [who] that the Tenant does not have young children or any persons with special needs that the Board needs to consider living with them, and whether the Landlord attempted to negotiate a repayment agreement with the Tenant and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
11. I have considered all of the evidence presented at the hearing and all of the oral testimony and although I may not have referred to each piece of evidence individually or referenced all of the testimony, I have considered it when making my determinations.
12. This order contains all reasons for the determinations and order made. No further reasons will be issued.

**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 7, 2023.

2. If the unit is not vacated on or before April 7, 2023, then starting April 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 April 8, 2023.
4. The Tenant shall pay to the Landlord \$2,860.27, which represents compensation for the use of the unit from September 1, 2022 to February 21, 2023, less the rent deposit and interest the Landlord owes on the rent deposit.
5. The Tenant shall also pay the Landlord compensation of \$16.44 per day for the use of the unit starting February 22, 2023 until the date the Tenant moves out of the unit.

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**March 27, 2023**

**Date Issued**

**Greg Brocanier**

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 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.

