



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

Citation: Zhu v Ashton, 2023 ONLTB 27286

Date: 2023-03-23

File Number: LTB-L-023737-22

In the matter of: 111 Palmerston Ave
Whitby ON L1N3E6

Between:

Jian-Shong Zhu Landlord

And

Jian-Shong Zhu (the 'Landlord') applied for an order to terminate the tenancy and evict Chantal Ashton (the 'Tenant') because:

- the Tenant has been persistently late in paying the Tenant's rent;
- 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 14, 2023.

Only the Landlord attended the hearing.

As of 130 p.m. 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 daily compensation in the application. Therefore, the Tenancy between the Landlord and Tenant is terminated as of July 1, 2022.
2. The Tenant was in possession of the rental unit on the date the application was filed.

N8 Notice of Termination

On April 19, 2022, the Landlord gave the Tenant an N8 notice of termination. The notice of termination contains the following allegations: the Tenant has persistently paid the rent late.

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3. The Tenant has persistently failed to pay the rent on the date it was due for the past twelve months. The Landlord filed an L1/L9 update sheet with his disclosure, however the Landlord did not file an L1 application so the rent arrears cannot be awarded at this hearing

N12 Notice of Termination for Landlord's Own Use

On April 20, 2022, the Landlord served the Tenant with an N12 notice with the termination date of June 30, 2022.

4. The Landlord 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.
5. The Landlord testified that he is currently residing in a rental unit. The Landlord has mobility issues. The home that he is currently living in has stairs. He has fallen down the stairs and injured himself on two occasions. The rental unit does not have stairs and the Landlord needs a living environment that does not put him at risk for injury and can accommodate his mobility issues.
6. Based on the Monthly rent, the daily compensation is \$52.60. This amount is calculated as follows: \$1,600.00 x 12, divided by 365 days. There is no last month's rent deposit.
7. The Landlord has compensated the Tenant an amount equal to one month's rent by the termination date of June 30, 2022. The Landlord has waived one month June 1, 2022 – June 30, 2022 of the rent arrears owed by the Tenant.
8. The Tenant was required to pay the Landlord \$12,046.03 in daily compensation for use and occupation of the rental unit for the period from July 1, 2022 to February 14, 2023.
9. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
10. There is no last month's rent deposit.

11. 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 Tenant did not appear at the hearing to dispute the Landlord's application. Based on the Landlord's submissions regarding the Landlord's mobility issues and the Tenant's persistent late payment of rent, to deny the eviction would be prejudicial to the Landlord.

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 3, 2023.
2. If the unit is not vacated on or before April 3, 2023, then starting April 4, 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 4, 2023.

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4. The Tenant shall pay to the Landlord \$12,046.03, which represents compensation for the use of the unit from July 1, 2022 to February 14, 2023, less the rent deposit and interest the Landlord owes on the rent deposit.
5. The Tenant shall also pay the Landlord compensation of \$52.60 per day for the use of the unit starting February 15, 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. The total amount the Tenant owes the Landlord is \$12, 232.03
8. If the Tenant does not pay the Landlord the full amount owing on or before April 3, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 4, 2023 at 5.00% annually on the balance outstanding.

March 23, 2023

Date Issued

Maria Shaw

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 4, 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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