



**Order under Section 79
Residential Tenancies Act, 2006**

Citation: District of Parry Sound Social Services Administration Board NOAH v Eska, 2023
ONLTB 26077

Date: 2023-03-21

File Number: LTB-L-012394-22

In the matter of: LOWER, 10356 HWY 124
SUNDRIDGE ON P0A1Z0

Between: District of Parry Sound Social Services Administration Board Landlord
NOAH

And

Wilfred Eska Tenant

District of Parry Sound Social Services Administration Board NOAH (the 'Landlord') applied for an order to terminate the tenancy and evict Wilfred Eska (the 'Tenant') because the Landlord believes that the Tenant abandoned the unit.

This application was heard by videoconference on January 23, 2023.

Only the Landlord's agent, Sharon Davis attended the hearing.

As of 11:18 a.m. the Tenant was not present or represented at the hearing.

Determinations:

1. The residential unit is located above a restaurant. The Tenant moved into the unit about 20 years ago and was operating the restaurant.
2. The Tenant was in arrears of rent and last paid the rent in September 2021.
3. The Landlord believes that in December 2021, the Tenant abandoned the unit and moved back to Austria, permanently to look after his mother and because the Tenant is now, elderly.
4. The Landlord submitted as evidence a screen shot of a community posting for the "farewell get together" for the Tenant as he was moving back to Austria. The Landlord called the Tenant on January 11, 2022, but the phone was disconnected.

5. The Landlord also submitted letters to the Tenant dated January 28, 2022 and February 28, 2022 inquiring whether the Tenant has abandoned the unit. The February 2022 letter was returned to the Landlord.

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6. The Landlord inspected the unit on January 31, 2022 and provided photographs that show that the notice of entry letter was unopened, the calendar on the wall showed the month of December 2021, there was no linens on the bed, limited clothing, no fridge in the kitchen, kitchen cupboards empty, and antifreeze in the toilet.
7. The Landlord visited the unit weekly since January 2022 and the unit was in the same condition.
8. The Landlord submitted photographs taken of the unit on February 24, 2022 to show there has been no change to the condition of the unit.
9. The Landlord has not received any communication from the Tenant.
10. Abandonment is a unilateral act by a tenant to relinquish their tenancy and give up possession of the rental unit without proper notice of termination to the landlord.
11. Based on the uncontested evidence before me, I find on a balance of probabilities that the Tenant has abandoned the rental unit.
12. 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.
13. The Landlord incurred costs of \$186.00 for filing the application and is entitled to the reimbursement of those costs.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated.
2. The Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.

3. If the Tenant does not pay the Landlord the full amount owing on or before April 1, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 2, 2023 at 5.00% annually on the balance outstanding.

March 21, 2023

Date Issued

Debbie Mosaheb

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.

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