



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

**Citation:** Rajavel v Smith, 2023 ONLTB 26132

**Date:** 2023-03-17

**File Number:** LTB-L-040840-22

**In the matter of:** 2585 SNOW KNIGHT DR  
OSHAWA ON L1L0K2

**Between:** Mithila Rajavel Landlords  
Valarmathy Vallipuram

**And**

Nashema Smith Tenant

Mithila Rajavel and Valarmathy Vallipuram (the 'Landlords') applied for an order to terminate the tenancy and evict Nashema Smith (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.

This application was heard by videoconference on March 8, 2023.

Only the Landlords attended the hearing.

As of 9:47 a.m., 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. The Landlords in good faith require possession of the rental unit for the purpose of residential occupation by the Landlord for a period of at least one-year. I say this for the reasons that follow.
2. The Landlords' application is based on a notice of termination issued pursuant to s.48 of the *Residential Tenancies Act, 2006* (the 'Act') alleging the Landlords' wish to live in the

rental unit. The notice is dated July 9, 2022 and sets out a date for termination of the tenancy of September 14, 2022.

3. The Landlord Mithila Rajavel testified to being the individual moving into the rental unit in good faith.
4. The Tenant was in possession of the rental unit on the date the application was filed.

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5. The monthly rent is \$1,990.00. It is due on the 15<sup>th</sup> of the month.
6. The rent is paid to February 14, 2023.
7. The Landlords are not holding a last month rent deposit. The deposit was applied to rent in September 2021.
8. The Landlords compensated the Tenant an amount equal to one month's rent pursuant to section 55 of *Residential Tenancies Act, 2006* (the 'Act') by the termination date in the notice; the compensation was paid by on October 15, 2021, but the Tenant did not cash the cheque.
9. As the Tenant did not cash the compensation cheque, \$1,990.00 shall be applied towards the rent due for the period February 15, 2023 to March 14, 2023 to account for this money.
10. The Landlords served 2 previous N12 notice of termination in good faith. The first N12 was given on August 29, 2021 but the Landlords did not file the application within the 30-day limitation period, therefore the notice became void. A second N12 was served on December 20, 2021 but it was dismissed at hearing due to a technicality. The compensation cheque was given to the Tenant with the 1<sup>st</sup> N12.
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 Landlord Mithila Rajavel intends on moving into the rental unit as soon as the Tenant vacates and wishes to do so as soon as possible. The Tenant did not attend the hearing to offer any other considerations.

**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 March 28, 2023.
2. The compensation due to the Tenant equivalent to one-month rent, \$1,990.00, shall be applied to the rent due for the period February 15, 2023 to March 14, 2023.
3. If the unit is not vacated on or before March 28, 2023, then starting March 29, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
4. 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 March 29, 2023.

**March 17, 2023**

**Date Issued**

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Diane Wade

Member, Landlord and Tenant Board

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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 September 29, 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.

