



Order under Section 69 of the Residential Tenancies Act, 2006

Citation: Sheng v Mihalakopoulos, 2023 ONLTB 21893

Date: February 21, 2023

File Number: LTB-L-022553-22

In the matter of: 2741 Herald Rd
Sharon ON LOG1V0

Between: Jianwei Sheng Landlord

and

Jason Nikolas Mihalakopoulos Tenant

Jianwei Sheng (the 'Landlord') applied for an order to terminate the tenancy and evict Jason Nikolas Mihalakopoulos (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 telephone/video-conference on January 11, 2023. The Landlord and her legal representative Yun Tao Li attended the hearing. As of 9:58am (the hearing started at 9am), the Tenant was not present or represented although properly served with notice of the hearing. There was no record in the Board's file of a request to adjourn or reschedule the hearing from the Tenant. As a result, the hearing proceeded with only the Landlord's evidence, as allowed by section 7 of the *Statutory Powers Procedure Act*.

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 L2 application. Therefore, the tenancy is terminated effective March 23, 2023.

Good Faith

2. The Landlord served a N12 Notice of Termination (the 'N12 Notice') on the Tenant pursuant to section 48 of the *Residential Tenancies Act, 2006* (the 'Act'). Section 48(1) requires that in order to be successful in this L2 application, the Landlord must establish that at the time of service of the N12 Notice, she required, in good faith, the unit for residential use for a period of at least one year.
3. In *Feeney v. Noble, 1994 CanLII 10538* (ON SC), the Court held that the test of good faith is a genuine intention to occupy the premises and not the reasonableness of the Landlord's proposal. This principle was upheld in *Salter v. Beljinac, 2001 CanLII 40231* (ON SCDC) where the Court held that the "good faith" requirement simply means that the

Landlord sincerely intends to occupy the rental unit. The Landlord may also have additional motives for selecting a particular rental unit, but this does not affect the good faith of the Landlord's notice.

4. The Landlord submitted an affidavit with her application that she in good faith requires the rental unit for herself, her spouse, and her child, to occupy for at least one year. The N12 Notice also stated these same intentions.
5. The Landlord submitted proof of an e-transfer made to compensate the Tenant for one month's rent by the termination date in the N12 Notice. I also find that the Landlord provided valid notice of termination evidenced by a Certificate of Service for the N12 Notice.
6. The Tenant was in possession of the rental unit when the L2 application was filed, and the Tenant continues to live at the rental unit as of this hearing date.
7. The Landlord also submitted documents to show her spouse and child left China for Canada in September 2022. Since arriving in Canada, the Landlord's spouse and child have been living with a friend. Pictures were submitted showing the inadequate space at her friend's house. The Landlord submitted that she currently lives in a one room rental close to her workplace. The Landlord testified that she would like to use the rental unit so that her whole family can reunite and live together with more space than they currently have. Even though the drive from the rental unit to her workplace will be a little longer than it is now, the Landlord testified that she would have no problem driving 20 minutes each way, so long as her whole family could live together and have enough space at the rental unit.
8. Based on the uncontested evidence of the Landlord, I find that she has proven on a balance of probabilities, that in good faith, she requires possession of the rental unit for the purpose of residential use for herself and her family for at least one year.

Relief from Eviction Analysis

9. The Landlord testified that the situation is urgent and her son and spouse are struggling to live in such a confined space. Their current living situation is uncomfortable and her friend has already asked if the son and spouse can move out.
10. The Landlord did not know about any circumstances regarding the Tenant. The Landlord believed he had a girlfriend but was not aware whether he has any children or any other factors for consideration regarding relief from eviction. The Landlord was willing to extend 30 days for eviction rather than the standard order (11 days).
11. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act and find it would not be unfair to postpone eviction until March 23, 2023 (30 days from the issuance date of this order).

Daily Compensation

12. Based on the monthly rent of \$2000.00, the daily compensation amount is \$65.75. This amount is calculated as follows: \$2,000.00 x12, divided by 365 days. The Tenant shall pay for daily compensation for each day he stays in the rental unit after the termination date in the N12 Notice (June 30, 2022), less any amounts he has already paid for rent.
13. There is no last month's rent deposit.

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 23, 2023 (30 days from the issuance date of this order).
2. If the unit is not vacated on or before March 23, 2023, then starting March 24, 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 March 24, 2023.
4. The Tenant shall pay the Landlord \$65.75 per day, for each day of occupation in the rental unit starting July 1, 2022 until he moves out or is evicted (less any amount of rent already paid during this time period).

February 21, 2023
Date Issued

Michelle Tan
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 September 24, 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.