



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

Citation: Jung v Ezeard, 2023 ONLTB 19447

Date: 2023-02-16

File Number: LTB-L-026348-22

In the matter of: BASEMENT APARTMENT, 102A DIXON RD ETOBICOKE
ON M9P2L6

Between: Lam Fong Jung Landlord

And

Michael Ezeard Tenant

Lam Fong Jung (the 'Landlord') applied for an order to terminate the tenancy and evict Michael Ezeard (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 videoconference on January 25, 2023. The Landlord's legal representative, Liam Walker; the Landlord's agent/daughter, Lily Chau; and the Tenant attended the hearing. The Landlord's son, Norman Lin, also attended the hearing and testified for the Landlord.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the tenancy is terminated effective August 31, 2023.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On April 26, 2022, the Landlord gave the Tenant an N12 notice of termination (deemed served on May 1, 2022) with the termination date of June 30, 2022. The Landlord claims that she requires vacant possession of the rental unit for the purpose of residential occupation by her son, Norman Lin.

4. Mr. Lin testified that he intends to move into the rental unit because he is planning to retire this year and he would like to have privacy and quiet. Mr. Lin testified that he currently lives in another unit in the residential complex with his nephew. Mr. Lin testified that he intends to live in the rental unit for a long time, at least one year. The Tenant testified that he believes Mr. Lin genuinely intends to move into the rental unit; but he requested to have until August 31, 2023 to move out.

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5. Based on the evidence before me, I am satisfied on a balance of probabilities that the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation by her son for a period of at least one year.
6. The Landlord compensated the Tenant an amount equal to one month's rent. The parties do not dispute that the Landlord attempted to pay the Tenant the compensation before the termination date in the N12 Notice as required by sections 48.1 and 55.1 of the *Residential Tenancies Act, 2006* (the "Act"). However, the Tenant refused to accept this payment. During the hearing, the Tenant accepted the Landlord's payment. I find this sufficient to comply with the requirements of the Act.
7. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act and find that it would not be unfair to postpone the eviction until August 31, 2023 pursuant to subsection 83(1)(b) of the Act. The Tenant has been living in the rental unit for eight years. He requested to have until August 31, 2023 to move out so he can complete his nearby schooling, tutoring and co-op and so he can find another affordable place to live. On the other hand, Mr. Lin's evidence indicates that there is no urgency to him moving into the rental unit. Mr. Lin currently has a place to live; in fact, he is living in another unit in the residential complex. In addition, the reason for him wanting to move into the rental unit has not yet materialized. Mr. Lin testified that he intends to move into the rental unit so he can have quiet and privacy in his retirement, but he also testified that he has not retired yet, although he is planning to do so in the spring or summer.
8. The parties do not dispute that as of the hearing, the Tenant was up to date on his rent. Therefore, the daily compensation will begin to run from February 1, 2023. The monthly rent is \$922.50. Based on the monthly rent, the daily compensation is \$30.33. This amount is calculated as follows: $\$922.50 \times 12$, divided by 365 days.
9. 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 August 31, 2023.

2. If the unit is not vacated on or before August 31, 2023, then starting September 1, 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 September 1, 2023.
4. The Tenant shall pay the Landlord compensation of \$30.33 per day for the use of the unit starting February 1, 2023 until the date the Tenant moves out of the unit.

February 16, 2023

Date Issued

Anna Solomon

Vice Chair, 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 March 1, 2024 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.