



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

**Citation:** Fernandes v Torrville, 2023 ONLTB 19683

**Date:** 2023-02-10

**File Number:** LTB-L-025320-22

**In the matter of:** 192 BURGESS CRES  
NEWMARKET ON L3X2T9

**Between:** Claudette Fernandes\n Michael Fernandes Landlord

**And**

Aurora Lopez\n Christopher Torrville Tenant

Claudette Fernandes and Michael Fernandes (the 'Landlord') applied for an order to terminate the tenancy and evict Aurora Lopez and Christopher Torrville (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 and the Tenant attended the hearing, at which time the Tenant testified that they spoke with Duty Counsel.

**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 application. Therefore, the application is granted.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On April 22, 2022, the Landlord gave the Tenant an N12 notice of termination with the termination date of June 30, 2022. The Landlord claims that they require vacant possession of the rental unit for the purpose of residential occupation by the Tenant's child.
4. The Landlord in good faith requires possession of the rental unit for the purpose of their child's residential occupation for a period of at least one year.
5. The Landlord has compensated the Tenant an amount equal to one month's rent by June 30, 2022.
6. The Tenant was required to pay the Landlord \$12,780.49 in daily compensation for use and occupation of the rental unit for the period from July 1, 2022 to January 25, 2023.
7. Based on the Monthly rent, the daily compensation is \$61.15. This amount is calculated as follows: \$1,860.00 x 12, divided by 365 days.

8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlord collected a rent deposit of \$1,860.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$25.23 is owing to the Tenant for the period from July 1, 2020.
10. In accordance with subsection 106(10) of the *Residential Tenancies Act, 2006*, (the 'Act') the last month's rent deposit shall be applied to the rent for the last month of the tenancy.
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 not be unfair to postpone the eviction until June 30, 2023 pursuant to subsection 83(1)(b) of the Act.

**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 June 30, 2023.
2. If the unit is not vacated on or before June 30, 2023, then starting July 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 July 1, 2023.
4. The Tenant shall pay to the Landlord \$10,895.26, which represents compensation for the use of the unit from July 1, 2022 to January 25, 2023, less the rent deposit and interest the Landlord owes on the rent deposit.
5. The Tenant shall also pay the Landlord compensation of \$61.15 per day for the use of the unit starting January 26, 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.

**February 17, 2023**

**Date Issued**

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Sean Henry

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 January 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.