



Order under Section 77 Residential Tenancies Act, 2006

Citation: Patel v Tessema, 2023 ONLTB 18922

Date: 2023-02-10

File Number: LTB-L-077530-22

In the matter of: 40 Kenfin Avenue, Basement, Scarborough, Ontario,
M1S4G1

Between:	Rekha Gaddam	Landlord
	Sahil Patel	
	Yunus Patel	
	And	
	Nahome Tessema	Tenant

Rekha Gaddam, Sahil Patel and Yunus Patel (the 'Landlord') applied for an order to terminate the tenancy and evict Nahome Tessema (the 'Tenant') because the Tenant entered into an agreement to terminate the tenancy.

This application was heard by videoconference on January 31, 2023.

The Landlord Sahil Patel and the Tenant attended the hearing.

Determinations:

1. The Landlord applied for an order to terminate the tenancy and evict Nahome Tessema (the 'Tenant') because the Tenant entered into an agreement to terminate the tenancy.
2. The Landlord filed the L3 application to end a tenancy and evict the Tenant within 30 days of the termination date.
3. The Tenant lives with his 16-year-old brother and has resided in the basement unit of the residential complex since December 2019. The Landlord testified that the Tenant has persistently paid rent late and that in the fall of 2022, the Landlord advised the Tenant that should he fail to pay rent, the Landlord was going to proceed with an eviction. According to the Landlord, the Tenant responded he could move out in 2 months.
4. Based upon the Tenant's response, the Landlord drafted a form N11, dropped it off at the rental unit with the Tenant's brother, and then left. The Landlord produced a text message whereby the Tenant indicated on October 2, 2022 "*I will need two months to find a place*



and we will move out". The Text communications also show that on October 3, 2022, the Landlord indicated "I gave Mickey 2 copies of a form...its an agreement to end the lease on Nov 30", to which the Tenant responded "Ok".

5. The Tenant admits to signing the Form N11 on October 4, 2022, containing a termination date of November 30, 2022. Although the Form N11 does not contain the "basement" unit notation in the address, the Tenant admitted that he was not confused and that the Form N11 referred to the Tenant's "basement" rental unit. The Tenant stated he started looking for a places after signing the Form N11, but has yet to secure alternative accommodations.
6. Based upon the submissions made, I find the Tenant understood what he was signing, and I do not find any evidence of undue pressure or duress. As such, I find the parties entered into a valid agreement to end the tenancy and that the Tenant did not move out of the rental unit by the termination date set out in the Form N11.

Section 83

7. Section 83 of the *Residential Tenancies Act, 2006* (the 'Act') requires that I consider all the circumstances, including the Tenant's and the Landlord's situations to determine if it would be appropriate to grant section 83 relief from eviction.
8. In the event eviction were granted, the Tenant request approx. 60 days to find alternative accommodations. The Tenant noted that there are currently no arrears of rent and he indicated the additional time is needed to find alternative housing. The Landlord seeks eviction within 30 days and advised the Tenant's inconsistent and late payments have been troublesome and stressful. He indicated he recently had a newborn baby and that his family depends on timely rent payments.
9. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Act*, including the Tenant's and the Landlord's family situations, and I find that it would not be unfair to postpone the eviction until March 31, 2023.

It is ordered that:

1. The tenancy between the Landlord and Tenant is terminated on March 31, 2023. The Tenant must move out of the rental unit on or before March 31, 2023.
2. If the unit is not vacated on or before March 31, 2023, then starting April 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 April 1, 2023.

February 10, 2023

Date Issued

Peter Nicholson

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 expires on September 30, 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.