



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

Citation: Heffernan v Bryer, 2023 ONLTB 18492

Date: 2023-02-08

File Number: LTB-L-018436-22

In the matter of: 2371 REDMOND RD
OTONABEE ON K9J6X7

Between: Chris Heffernan Landlords
Mike Heffernan

And

Steven Bryer Tenant

2023 ONLTB 18492 (CanLII)

Chris Heffernan and Mike Heffernan (the 'Landlords') applied for an order to terminate the tenancy and evict Steven Bryer (the 'Tenant') because the Landlords in good faith require possession of the rental unit for the purpose of residential occupation for at least one year.

The Landlords also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on November 2, 2022. The Landlords, the Landlords' legal representative, C.Francey, attended the hearing. The Tenant was initially present and then left prior to the hearing being called.

Determinations:

ADJOURNMENT REQUEST

1. At the outset of the hearing the Tenant requested an adjournment. The reason for their request was so that he could retain counsel. The Tenant stated that he did not receive the notice of hearing until about a week before the hearing date. For the following reasons, I denied the Tenant's request.
2. The Tenant was afforded the opportunity to speak to tenant duty counsel at the hearing. The Landlords served the notice of termination in February 2022, on page 2 the notice of termination informs the Tenant to seek legal advice if the tenant disagrees with the notice, furthermore- the Board's notice of hearing directs the tenant to do the same. As of the date of the hearing the Tenant had not retained counsel and counsel is not an absolute right. Therefore, I denied the Tenant's adjournment request.

3. After I denied the Tenant's request the Tenant disconnected at approximately 10:40am. I called the matter at approximately 11:30am, the Tenant was not present. The Landlords' legal representative attempted to contact the Tenant via telephone, however there was no response. I continued hearing the application uncontested.

L2 APPLICATION

4. As explained below, the Landlords have proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the application is granted, and the tenancy will terminate.
5. The Tenant was in possession of the rental unit on the date the application was filed.
6. On February 19, 2022, the Landlords gave the Tenant an N12 notice of termination with the termination date of April 30, 2022. The Landlords claim that they require vacant possession of the rental unit for the purpose of residential occupation by themselves.
7. The Landlords have compensated the Tenant an amount equal to one month's rent by April 30, 2022.
8. The Landlords filed a declaration with the Board indicating that they have a genuine intention to move in for a period of at least one year.
9. There is no last month's rent deposit.
10. The rental unit is a detached house. The Landlords testified that they are currently living in an apartment and could use the extra space for them and their family. They recently purchased a business in Peterborough and intends to live in the rental unit to be close and run that business.
11. I accept the Landlords' testimony and find that the Landlord has a genuine intention to occupy the rental unit for a period of at least one year and therefore find that the notice was served in good faith.
12. As noted, the Tenant did not attend the hearing of this matter and thus I did not have the opportunity to hear their evidence regarding their circumstances. or to dispute the Landlord's application for an eviction order.
13. 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.

It is ordered that:

1. The tenancy between the Landlords and the Tenant is terminated. The Tenant must move out of the rental unit on or before February 19, 2023.
2. If the unit is not vacated on or before February 19, 2023, then starting February 20, 2023, the Landlords 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 February 20, 2023.

February 8, 2023

Date Issued

Curtis Begg

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 August 20, 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.