



**Order under Section 94
Residential Tenancies Act, 2006**

Citation: ATLANTIS REALTY SERVICE INC v Kalicki, 2023 ONLTB 18212

Date: 2023-01-31

File Number: LTB-L-065173-22

In the matter of: 103, 88 BERNARD AVE
TORONTO ON M5R1R7

Between: ATLANTIS REALTY SERVICE INC Landlord

And

Megan Kalicki Tenant

ATLANTIS REALTY SERVICE INC (the 'Landlord') applied for an order to terminate the tenancy and evict Megan Kalicki (the 'Tenant') because:

- the rental unit is the superintendent's premises and the Tenant's employment as superintendent has ended.

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 16, 2023.

Only Lauren Adriano, agent for the Landlord and the Landlord's Legal Representative, Jeff Shabes attended the hearing.

As of 1:41 p.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. The Landlord's L2 application sought termination of the tenancy based on the Tenants dismissal as building superintendents. For the reasons that follow, termination is granted.
2. The Tenants was still in possession of the rental unit as of the date the application was filed.
3. The Landlord's Agent testified that the superintendent was given a letter to terminate on October 20, 2022. As indicated in the letter of termination, the superintendent's employment was terminated on October 20, 2022, but was paid their salary until November 4, 2022. The Tenant was given until November 3, 2022 to vacate the

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designated superintendent's unit. When the Tenant had not vacated the rental unit within 2-weeks from that date, the Landlord filed the L2 application.

4. Pursuant to section 93(3) of the Residential Tenancies Act, 2006 (the 'Act'), the Tenant is not responsible for rent from November 3, 2022 through November 10, 2022.
5. The Landlord is seeking daily compensation for the Tenant's use of the unit from November 11, 2022.
6. The daily compensation is based on rent of \$1,200.00 per month. The Landlord arrived at this number by averaging out the rent for similar units, as demonstrated by the documents entered into evidence.
7. Based on the Monthly rent, the daily compensation is \$39.45. This amount is calculated as follows: \$1,200.00 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. There is no last month's rent deposit.

Relief from Eviction

1. 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. The Landlord requires vacant possession of the rental unit as it houses all the monitoring equipment. Further, the Tenant did not attend the hearing to present me with any other consideration.

Expedited Eviction

2. The Landlord's Legal Representative requested expedited enforcement of this order due to the safety risks to all tenant in the building with the Landlord being unable to access the monitoring equipment.
3. Section 84 of the Act, subject to the Board delaying the eviction date pursuant to section 83(1)(b), an expedited eviction order shall be issued when a tenancy is terminated for a serious impairment of safety. Although this is not an impaired safety application, I find I have the discretion under section 83(1) of the Act when considering all of the circumstances; specifically, that the Tenant's unit is a designated superintendent's unit and houses all of the Landlord's monitoring equipment, including fire safety monitoring equipment. The Landlord requires access to this equipment for the safety of all tenants and the rental complex.
4. This order contains all the reasons for the decision within it. No further reasons shall be issued.

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 February 11, 2023.
2. If the unit is not vacated on or before February 11, 2023, then starting February 12, 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 February 12, 2023. **The Sheriff is requested to expedite the enforcement of this order.**
4. The Tenant shall pay to the Landlord \$3,156.00 which represents the amount of compensation owing for November 12, 2022 through January 31, 2023, the date of this order
5. The Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.
6. The total amount the Tenant owes the Landlord is \$3,342.00.
7. If the Tenant does not pay the Landlord the full amount owing on or before February 11, 2023, the Tenant will start to owe interest. This will be simple interest calculated from February 12, 2023 at 5.00% annually on the balance outstanding.

January 31, 2023

Date Issued

Diane Wade

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 12, 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.

