



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

Citation: Salvador v Mugridge, 2023 ONLTB 14092

Date: 2023-01-11

File Number: LTB-L-035455-22

In the matter of: 2, 167 MCHAUGHTON AVENUE
CHATHAM ON N7L1R2

Between: John Salvador Landlord

And

Mason William Robert Mugridge and Trisha-Lynn Dianne Jinkerson Tenant

John Salvador (the 'Landlord') applied for an order to terminate the tenancy and evict Mason william robert Mugridge and Trisha-lynn dianne Jinkerson (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.

This application was heard by videoconference on November 1, 2022.

The Landlord's legal representative, John Muresan, and the Landlord attended the hearing.

Both Tenants, attended the hearing.

Determinations:

1. The Tenant was in possession of the rental unit on the date the application was filed.
2. On April 28, 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 Landlord's child.
3. The Landlord in good faith requires possession of the rental unit for the purpose of their child's occupation for a period of at least one year.

4. Compensation in the amount of \$700.00 was paid to the Tenant prior to the termination date.

PRELIMINARY ISSUE: AFFIDAVIT NOT FILED WITH APPLICATION

5. The Landlord's legal representative filed the L2 application on June 23, 2022. The requirement under the Act is to file the affidavit for the application at the same time as the application.
6. The affidavit was submitted to the Board on July 6, 2022.
7. There is no dispute the affidavit was submitted after the application was filed with the Board.

The Act and Analysis

8. S. 71.1 of the Act for an Application based on certain notice states:

Affidavit under s. 72 (1)

71.1 (1) A landlord who, on or after the day subsection 11 (1) of Schedule 4 to the Protecting Tenants and Strengthening Community Housing Act, 2020 comes into force, files an application under section 69 based on a notice of termination given under section 48 or 49 shall file the affidavit required under subsection 72 (1) at the same time as the application is filed.

9. S. 71(2) of the Act states:

Non-compliance with subs. (1)

(2) The Board shall refuse to accept the application for filing if the landlord has not complied with subsection (1).

10. Pursuant to s. 71 of the Act the Landlord's application is invalid and cannot be accepted by the Board.
11. At the hearing the Landlord's legal representative requested the consent of the Board to withdraw the application.
12. In accordance with subsection 200(4) of the Act, I consent to the withdrawal of the application.

13. I have considered all of the evidence presented at the hearing and all of the oral testimony and although I may not have referred to each piece of evidence individually or referenced all of the testimony, I have considered it when making my determinations.
14. This order contains all reasons for the determinations and order made. No further reasons will be issued.

It is ordered that:

1. The Landlord's application is dismissed as withdrawn.
2. The Tenant shall pay to the Landlord the compensation paid for the application in the amount of \$700.00 on or before Jan 21, 2023
3. If the Tenant does not pay the Landlord the full amount owing* in paragraph 2 of this order on or before January 21, 2023, the Tenant will start to owe interest. This will be simple interest calculated from January 22, 2023 5.00% annually on the balance outstanding.

January 11, 2023

Date Issued

Greg Brocanier

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.

