



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

**Citation:** Hu v Liu, 2023 ONLTB 14094

**Date:** 2023-01-09

**File Number:** LTB-L-019522-22

**In the matter of:** 1502, 50 CHARLES ST E  
TORONTO ON M4Y0C3

**Between:** Shuangzeng Hu Landlord

**And**

Xi Liu Tenant

Shuangzeng Hu (the 'Landlord') applied for an order to terminate the tenancy and evict Xi Liu (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 Landlords attended the hearing.

The Tenant also attended the hearing.

**Determinations:**

1. The Tenant was in possession of the rental unit on the date the application was filed.
2. On March 25, 2022, the Landlord gave the Tenant an N12 notice of termination with the termination date of May 31, 2022. The Landlord claims that they require vacant possession of the rental unit for the purpose of residential occupation by the Landlord, his spouse and child.
3. The Landlord collected a rent deposit of \$1,350.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$0.00 is owing to the Tenant for the period from April 1, 2021 to.
4. Compensation in the amount of \$1,366.20 was paid to the Tenant prior to the termination date.

PRELIMINARY ISSUE: AFFIDAVIT NOT FILED WITH APPLICATION

5. The Landlord filed the L2 application on April 9, 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 April 10, 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 and must be dismissed.
11. 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.
12. 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.
2. The Tenant shall pay to the Landlord the compensation paid for the application in the amount of \$1,366.20 on or before Jan 19, 2023
3. If the Tenant does not pay the Landlord the full amount owing\* in paragraph 2 of this order on or before January 20, 2023, the Tenant will start to owe interest. This will be simple interest calculated from January 24, 2023 5.00% annually on the balance outstanding.

**January 9, 2023**

**Date Issued**

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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.