



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

Citation: Bojje v Weller, 2022 ONLTB 13658

Date: 2022-12-09

File Number: LTB-L-014519-22

In the matter of: 225 Blackwell Crescent
Oshawa ON L1L0C9

Between: Siddhartha Bojje Landlord

And

Bill Weller, Eileen Paterson, Kieran Paterson Tenant

Siddhartha Bojje (the 'Landlord') applied for an order to terminate the tenancy and evict Bill Weller, Eileen Paterson, Kieran Paterson (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.

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 October 4, 2022.

The Landlord, and the Landlord's legal representative, Zeeshan Rahman, attended the hearing. The tenant, Eileen Paterson (EP), also attended the hearing.

Determinations:

1. The Tenant is in possession of the rental unit.
2. This is a month to month tenancy in which rent is due on the first of each month in the amount of \$2,288.00.
3. The rental unit is a detached house and the Tenant rents the whole unit and the Tenant has lived in the rental unit since 2018.
4. On February 28, 2022, the Landlord gave the Tenant an N12 notice of termination with the termination date of April 30, 2022. The Landlord claims that they require vacant possession of the rental unit pursuant to subsection 48(1) of the Residential Tenancies Act, 2006 (the 'Act').
5. Pursuant to s.72(1) of the Act, the Landlord filed the declaration required stating that his daughter intends to move into the rental unit for no less than one year.

6. There is no dispute the Landlord paid the Tenant compensation in the amount equal to one month's rent pursuant to s.48(1) of the Act.
7. The Tenant was required to pay the Landlord \$11,809.84 in daily compensation for use and occupation of the rental unit for the period from May 1, 2022 to October 4, 2022.
8. Based on the Monthly rent, the daily compensation is \$75.22. This amount is calculated as follows: \$2,288.00 x 12, divided by 365 days.
9. The Landlord collected a rent deposit of \$1,990.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$119.57 is owing to the Tenant for the period from February 1, 2018 to .
10. In accordance with subsection 106(10) of the *Residential Tenancies Act, 2006*, (the 'Act') the last month's rent deposit shall be applied to the rent for the last month of the tenancy.

LAW AND ANALYSIS

11. According to s.48(1) of the Act:

A landlord may, by notice, terminate a tenancy if the landlord in good faith requires possession of the rental unit for the purpose of residential occupation for a period of at least one year by,

- a) the landlord;
 - b) the landlord's spouse;
 - c) a child or parent of the landlord or the landlord's spouse; or
 - d) a person who provides or will provide care services to the landlord, the landlord's spouse, or a child or parent of the landlord or the landlord's spouse, if the person receiving the care services resides or will reside in the building, related group of buildings, mobile home park or land lease community in which the rental unit is located.
12. The position of the Landlord is that he and his family were living in a house he shared with his brother and his brother's family. The living accommodations were becoming crowded as both families have children and both families were requiring more room to grow. The Landlord moved out expecting to take possession of the rental unit after serving the Tenant with the N12 notice, for a termination of April 30, 2022. The Tenant is still in possession of the rental unit, and so the Landlord and his family were forced to move in with the Landlord's parents, to share their house until they can take possession of the rental unit. The Landlord has two children that are attending school in the area and the living accommodations are becoming too crowded as the Landlord's children are growing older. The Landlord submitted he requires the rental unit so that he and his family can move out of his parent's house and in to the rental unit.

13. The position of the Tenant is the Landlord does not want to move into the house for his own use. The Tenant made claims the Landlord has attempted to force the Tenant to leave the rental unit by implementing illegal rent increases in previous years. The Tenant also submitted that the Landlord has previously served an N12 that had sections omitted from it, and this application is served in bad faith.
14. The Tenant gave no evidence that would lead to a conclusion that the Landlord does not genuinely intend to move into the rental unit for a period of at least a year. The Tenant's claims of illegal rent increase are not relevant to the Landlord's application and the Tenant may file her own application with the Board if she so chooses.
15. With respect to the prior N12, the Tenant did not support her claim with any documentary evidence submissions to the Board. The evidence before the Board shows the Landlord has filed no prior N12 with the Board, and the Landlord has met all the requirements pursuant to s. 48 of the Act.
16. The Landlord has not, within two years prior to filing this application, given any other notice under section 48, 49 or 50 of the Residential Tenancies Act, 2006 (the "Act") in respect of the same or a different rental unit.

s. 83 RELIEF / DELAY OF EVICTION

17. The Tenant submitted she would need six months in order to find suitable housing accommodations due to the limited availability of rental units in her area on the market. The Tenant submitted she had health issues, but did not provide the Board with any documentary evidence, relying solely on her oral testimony.
18. The Landlord says he cannot wait six months and is seeking termination of the tenancy for October 31, 2022.
19. Weighing the Tenant's circumstances of having to find new housing accommodations against the Landlord's current situation living with his parents, I find a delayed eviction is not unreasonable. While I understand this may present some inconvenience to the Landlord, I don't find the Landlord's circumstances rise to the level of granting the Landlord the request for a quick termination. 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 not be unfair to postpone the eviction until March 31, 2023 pursuant to subsection 83(1)(b) of the Act.
20. 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.
21. This order contains all reasons for the determinations and order made. No further reasons will 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 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.
4. The Tenant shall pay to the Landlord \$9,700.27, which represents compensation for the use of the unit from May 1, 2022 to October 4, 2022, less the rent deposit and interest the Landlord owes on the rent deposit.
5. The Tenant shall also pay the Landlord compensation of \$75.22 per day for the use of the unit starting October 5, 2022 until the date the Tenant moves out of the unit.
6. The total amount the Tenant owes the Landlord is \$9,700.27.
7. If the Tenant does not pay the Landlord the full amount owing on or before March 31, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 1, 2023 at 4.00% annually on the balance outstanding.

December 9, 2022
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.

In accordance with section 81 of the Act, the part of this order relating to the eviction of the Tenant expires on October 1, 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.

