



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

Citation: Culina v Cudlipp, 2022 ONLTB 13781

Date: 2022-12-05

File Number: LTB-L-030145-22

In the matter of: 367 WHITNEY AVE
SAULT STE. MARIE ON P6C5M3

Between: David G Culina Landlord

And

Tianna Cudlipp Tenant

David G Culina (the 'Landlord') applied for an order to terminate the tenancy and evict Tianna Cudlipp (the 'Tenant') because the Landlord has entered into an agreement of purchase and sale of the rental unit and the purchaser in good faith requires possession of the rental unit for the purpose of residential occupation.

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

Both the Landlord and the Tenant attended the hearing.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the tenancy is terminated. The Tenant must move out of the unit on or before January 3, 2023.
2. The Tenant was in possession of the rental unit on the date the application was filed.

N12 Notice of Termination - Purchaser's Own Use

3. On March 20, 2022, the Landlord gave the Tenant an N12 notice of termination by serving it to her personally. The termination date was May 31, 2022. The notice was given on behalf of the Purchaser who claims that they require vacant possession of the rental unit for the purpose of residential occupation.
4. The Landlord has proven that:
 - o The residential complex is a single-family dwelling.
 - o The Landlord has entered into an agreement of purchase and sale of the residential complex.
 - o The purchaser in good faith requires possession of the rental unit for the purpose of their own residential occupation.

5. The Landlord has compensated the Tenant an amount equal to one month's rent by May 31, 2022.
6. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
7. There is no last month's rent deposit currently on file.
8. The Tenant is in arrears of rent in the amount of \$1,100.00.

Section 83 Considerations

9. 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 eviction until January 4, 2023 pursuant to subsection 83(1)(b) of the Act.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated.
2. The Tenant must move out of the rental unit on or before January 3, 2023.
3. The Tenant owes the Landlord \$1,100.00 in rent arrears.
4. The Tenant also owes the Landlord \$186.00 for the cost of filing this application.
5. Rent for the period of January 1-3, 2023, calculated on a per diem basis is as follows:
 $\$1100 \times 12 / 365 = \36.16 per day per day $\times 3$ days = \$108.48.
6. The total amount the Tenant would owe the Landlord as of January 3, 2023 would be \$1,394.48.
7. At the consent of the Landlord, the total amount the Tenant owes the Landlord will be waived if the Tenant vacates the property on or before January 3, 2023. For greater clarity, this requires the Tenant leave the property in broom swept condition and provide all copies of any keys to the property in her possession.
8. If the Tenant does adhere fully to the terms of paragraph (7) above, then all monies owed to the Landlord will come due in full on January 3, 2023. If the Tenant does pay the full amount to the Landlord on or before January 3, 2023 the Tenant will start to owe interest. This will be simple interest calculated from January 4, 2023 at 3% annually on the balance outstanding.
9. If the Tenant does not vacate the property on or before January 3, 2023 then she shall pay the Landlord daily compensation of \$36.16 per day beginning January 4, 2023 until the date the Tenant moves out of the unit.
10. If the unit is not vacated on or before January 3, 2023, then starting January 4, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.

11. 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 January 4, 2023. The Sheriff is requested to expedite the enforcement of this order.

December 5, 2022
Date Issued

Amber Neumann
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 July 4, 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.