



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

**Citation:** Zervas v Thomas, 2022 ONLTB 10968

**Date:** 2022-11-28

**File Number:** LTB-L-015582-22

**In the matter of:** Unit 2-323 Queenston Street  
St. Catharines, ON L2P 2X7

**Between:** Athanasios Zervas Landlord

**And**

Tabatha Thomas Tenant

Athanasios Zervas (the 'Landlord') applied for an order to terminate the tenancy and evict Tabatha Thomas (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 18, 2022.

The Landlord, the Landlord's representative P. Janowski and the Tenant and the Tenant's representative P. Taylor 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 will be terminated on December 11, 2022
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. 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 for the purpose of residential occupation by the Landlord, and the Landlord's family.
4. At the time that the application was served, the Landlord and his wife were expecting a child. They wish to move into the Tenant's unit because it is a larger unit. It has one more bedroom, and an attic, which the current apartment does not have.
5. The Landlord and his family are living in another unit in the same building. They obtained it by serving an N12 to the previous tenant. The N12 that is under consideration for this application was served less than 12 months after they took possession of their current residence. The Landlord's parents will be moving into the vacant apartment. The Board is

satisfied that the Landlord intends to live in the residence for at least one year. While this ended up not being the case with his current residence, extenuating circumstances governed that decision. Specifically, the Landlord and his wife found out that they were having a child, a fact unknown to them when they served the N12 on their current apartment.

6. The Landlord has compensated the Tenant an amount equal to one month's rent by April 30, 2022.
7. The Landlord in good faith requires possession of the rental unit for the purpose of their own residential occupation for a period of at least one year.
8. There is no last month's rent deposit.

#### Relief From Eviction

9. We 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 past November 30, 2022 pursuant to subsection 83(1)(b) of the Act.
10. Though the Tenant raised issues under section 83(3) of the *Residential Tenancies Act, 2006*, they have not sought any resolution from the LTB. They informed us at the hearing that it is their intent to do so. The maintenance issues raised in the hearing predate the current Landlord and are not ongoing. The Board does not accept that these factors should prevent eviction.

#### **It is ordered that:**

11. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before December 11, 2022.
12. If the unit is not vacated on or before December 11, 2022, then starting December 12, 2022, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
13. 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 December 12, 2022.
14. The Tenant shall also pay the Landlord compensation of \$32.98 per day for the use of the unit starting November 1, 2022 until the date the Tenant moves out of the unit.

**November 28, 2022**

**Date Issued**

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 William Greenberg  
 Member, Landlord and Tenant Board

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 Jagger Benham  
 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 June 10, 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.