



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

Citation: Corbo v Anderson, 2022 ONLTB 8847

Date: 2022-10-25

File Number: LTB-L-010763-22

In the matter of: UNIT 2, 338 OLD MOSLEY ST
WASAGA BEACH ON L9Z2H6

Between: Christina Corbo Landlord

And

Rebecca Anderson, Sean Anderson Tenant

Christina Corbo (the 'Landlord') applied for an order to terminate the tenancy and evict Rebecca Anderson, Sean Anderson (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 July 12, 2022.

Only the Landlord attended the hearing.

As of 9:27 a.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. For the reasons that follow, I am satisfied that the purchaser in good faith requires possession of the rental unit for the purpose of her residential occupation for a period of at least one year.
2. On November 29, 2021, the Landlord served the Tenant with an N13 notice to terminate the tenancy on January 31, 2022, pursuant to section 49 of the *Residential Tenancies Act, 2006* (the 'Act') because the Landlord had signed an agreement of purchase and sale of the rental unit and the purchaser intends to move in.
3. The Landlord compensated the Tenant in the amount equal to one month's rent in accordance with section 55.1 of the Act.
4. The Landlord filed a declaration sworn by the new owner of the property who personally require the rental unit certifying that she in good faith require the rental unit for her own personal use for a period of at least one year.

5. The issue to be determined is whether the purchaser “in good faith requires possession of the rental unit for the purpose of residential occupation”, as per 9(1) of the *Residential Tenancies Act, 2006* (the ‘Act’).
6. The leading case on the determination of good faith in a landlord’s own use application is *Salter v. Beljinac*, 2001 CanLII 40231 (ON SCDC), [2001] O.J. No. 2792 (Div. Ct.). *Salter v. Beljinac* was decided under a similarly worded section of the previous legislation. The test is whether, on a balance of probabilities, a landlord genuinely wants the rental unit and intends to occupy, or have his family member occupy, the unit as a residence. The test before me in this case is whether the purchaser genuinely intends to move into the rental unit and occupy it for a period of at least one year.
7. At the hearing, Christina Corbo, who is the purchaser of the rental unit testified that she bought the property for her to live in. She is currently residing at her previous home and that she intends to use the rental property as her primary home. The Landlord testified that the Tenant sent text message correspondence confirming that she is aware of the hearing occurring on July 12, 2022.
8. I accept the uncontested evidence of the Purchaser that she genuinely wants to move into the rental unit. Therefore, I find that the N12 notice of termination was served in good faith.
9. There is no last month's rent deposit.

Relief from eviction

10. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. I have no reason to deny the eviction requested by the Landlord.

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 17, 2023.
2. If the unit is not vacated on or before March 17, 2023, then starting March 18, 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 March 17, 2023.
4. The Tenant shall pay to the Landlord \$9,586.85, which represents compensation for the use of the unit up to July 12, 2022, less the rent deposit and interest the Landlord owes on the rent deposit, and less any rent payments the Tenant has made during that period.
5. The Tenant shall also pay the Landlord compensation of \$59.18 per day for the use of the unit starting July 13, 2022, until the date the Tenant moves out of the unit.

6. If the Tenant does not pay the Landlord the full amount owing on or before March 17, 2023, the Tenant will start to owe interest. This will be simple interest calculated from March 18, 2023, at 5.00% annually on the balance outstanding.

March 6, 2023
Date Issued

Poeme Manigat
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 September 18, 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.