



**Order under Section 69 / 88.2
Residential Tenancies Act, 2006**

Citation: Kandiah v Dosaj, 2024 ONLTB 48832

Date: 2024-07-26

File Number: LTB-L-079530-23

In the matter of: 136 THORNDALE RD
BRAMPTON ON L6P0Z6

Between: Ramachandran Kandiah
Vimalavathy Ramachandran

And

Rajeev Dosaj
Ritu Dosaj
Divyansh Dosaj

I hereby certify this is a
true copy of an Order dated
JUL 26, 2024
Landlord and Tenant Board

Landlord

Tenant

Ramachandran Kandiah and Vimalavathy Ramachandran (the 'Landlord') applied for an order to terminate the tenancy and evict Rajeev Dosaj, Ritu Dosaj and Divyansh Dosaj (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.

Ramachandran Kandiah and Vimalavathy Ramachandran (the 'Landlord') also applied for an order requiring Rajeev Dosaj, Ritu Dosaj and Divyansh Dosaj (the 'Tenant') to pay the Landlord's reasonable out-of-pocket expenses that are the result of the Tenant's failure to pay utility costs they were required to pay under the terms of the tenancy agreement.

This application was heard by videoconference on May 29, 2024.

The Landlord, Landlord's Agent and son-in-law, Senthilnath Gunaratnam, Landlord's Witness, Gajan Ramachandran, Landlord's Support Person, Kalpana Ramachandran, the Tenant, Rajeev Dosaj, and the Tenant's Legal Representative, Shub Josan, attended the hearing.

When the capitalized word "Landlord" is used in this order, it refers to all persons or companies identified as a Landlord at the top of the order. When the capitalized word "Tenant" is used in this order, it refers to all persons identified as a Tenant at the top of the order.

It is determined that:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. Therefore the

tenancy is terminated on August 31, 2024. The Tenant must move out on or before August 31, 2024. The Tenant or Landlord must also pay the amount owing as a result of his order as further detailed below.

2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On September 14, 2023, the Landlord gave the Tenant an N12 notice of termination, deemed served September 15, 2023, with the termination date of November 30, 2023. The Landlord claims that they require vacant possession of the rental unit for the purpose of their own residential occupation as well as their child.
4. The Landlord in good faith requires possession of the rental unit for the purpose of their own residential occupation, and the occupation of their child for a period of at least one year. This was not disputed by the Tenant.
5. At the hearing date, the Landlord had not compensated the Tenant an amount equal to one month's rent and the termination date has passed. The Landlord provided a cheque dated November 24, 2023 to the Tenant. The Landlord sent it by regular mail and told the Tenant by text to look out for the cheque. The Tenant states they never received the cheque and the Landlord acknowledges the cheque has not been deposited as of the date of the hearing.
6. On this basis I was satisfied that the Landlord made reasonable efforts to pay compensation before the date of termination specified in the N12 notice of termination, but that to the date of the hearing it had not been paid. In these circumstances, I ordered an extension of the deadline to pay the compensation of \$2,800.00, equal to one month's rent, to July 31, 2024, under my discretion under s. 190(1) of the *Residential Tenancies Act, 2006* (the "Act") by my interim order dated July 12, 2024. I further ordered the Landlord was to file proof of this payment to the LTB prior to July 31, 2024, failing which this matter would be reconvened.
7. The Landlord filed with the LTB a letter to the Tenant, and a text message to the Tenant, both specifying that the Landlord was crediting the Tenant with the unpaid rent for July as the compensation equivalent to one month's rent as required. I am satisfied based upon this evidence that the compensation has now been paid.
8. As of the date of the hearing, the Tenant had paid their rent to May 31, 2024.
9. Based on the Monthly rent, the daily compensation is \$92.05. This amount is calculated as follows: \$2,800.00 x 12, divided by 365 days.
10. The Landlord collected a rent deposit of \$2,800.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$81.32 is owing to the Tenant for the period from April 1, 2023 to May 29, 2024.
11. The Tenant acknowledges that they failed to pay heat, electricity and/or water costs that they were required to pay under the terms of the tenancy agreement totaling \$1,413.00 and that as a result the Landlord has incurred or will incur reasonable out-of-pocket expenses of \$1,413.00. While the Landlord claimed for amounts in excess of this, they failed to prove on a balance of probabilities that the Tenant owes anything in excess of the \$1,413.00 acknowledged by the Tenant.

12. The Landlord and their child, Gajan Ramachandran, intend to move into the rental unit once it is vacated. They are currently living with the Landlord's son-in-law, daughter and 2 of their grandchildren. The house is a 4 bedroom home, and is crowded. This situation is causing strife between the family members, and that strife is beginning to affect the children more and more. The Landlord believes moving into a separate home and giving all members of the family more space will give the family peace. The Landlord asks for termination of the tenancy and possession of the rental unit by July 31, 2024 based on their circumstances.
13. The Tenant, Ritu Dosaj, is experiencing serious mental health issues. She is not able to participate in packing and moving activities, and requires a great deal of care and attention from her family. The Tenant supplied a note from Ritu Dosaj's doctor confirming that it would be best for her health to avoid stress in her current state. The Tenant testified that the thought of moving is very stressful for Ritu Dosaj and she is not able to handle anything related to it without serious distress. While taking care of his wife and working, the Tenant Rajeev Dosaj finds it difficult to find the time to search for new housing and pack up the rental unit. The Tenant was unable to provide a timeline as to when Ritu Dosaj would recover enough that moving would become less difficult, but hoped that six months might be sufficient to do so. The Tenant asks for postponement of the eviction to December 31, 2024 based on their circumstances, or alternatively as long as possible.
14. 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 August 31, 2024 pursuant to subsection 83(1)(b) of the Act.

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 August 31, 2024.
2. If the unit is not vacated on or before August 31, 2024, then starting September 1, 2024, 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 September 1, 2024.
4. The Tenant shall also pay the Landlord compensation of \$92.05 per day for the use of the unit starting June 1, 2024 until the date the Tenant moves out of the unit.
5. The Tenant shall pay to the Landlord \$1,413.00, which represents the reasonable out-of-pocket expenses the Landlord has incurred or will incur as a result of the unpaid utility costs.
6. A credit of \$2,800.00, the equivalent of July's rent the Landlord credited to the Tenant as the equivalent of one month's compensation, shall be credited against the amounts owed by the Tenant.
7. The Landlord owes \$2,881.32 which is the amount of the rent deposit and interest on the rent deposit.

8. As of the date of the hearing, the amount of the rent deposit and interest the Landlord owes on the rent deposit exceeds the amount the Landlord is entitled to by \$1,468.32.
9. The amount owed between the parties under this order shall be determined by the following formula:

\$1,468.32 (the amount by which the rent deposit and interest the Landlord owes on the rent deposit exceeds the amount the Landlord is entitled to as of the date of the hearing)

+ \$2,800.00 (credit for July's rent provided by the Landlord as compensation owed)

+ the amount of any rental payments made by the Tenant to the Landlord after the date of the hearing

- (\$92.05 x the number of days from June 1, 2024 to the date the Tenant moves out of the rental unit)

= The sum of money owed as a result of this order. A positive number represents an amount owing from the Landlord to the Tenant. A negative number represents an amount owing from the Tenant to the Landlord.

10. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.

July 26, 2024
Date Issued

Benjamin Seigel
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 March 1, 2025 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.