



DEC 09, 2024

Landlord and Tenant Board

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

Citation: Hughes v Borris, 2024 ONLTB 88922

Date: 2024-12-09

File Number: LTB-L-039171-24

In the matter of: 405 CARLETON ST
Cornwall ON K6H4X9

Between: Steven Hughes Landlord

And

Jaime Borris Tenants
Jean Phillippe Lacroix

Steven Hughes (the 'Landlord') applied for an order to terminate the tenancy and evict Jaime Borris and Jean Phillippe Lacroix (the 'Tenants') because:

- the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year.

This application was heard by videoconference on October 22, 2024.

The Landlord and the Tenants attended the hearing.

It is determined that:

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 as of May 31, 2025.
2. The Tenants were in possession of the rental unit on the date the application was filed.
3. On May 13, 2024, the Landlord gave the Tenants an N12 notice of termination with the termination date of July 31, 2024. The Landlord claims that they require vacant possession of the rental unit for the purpose of residential occupation by the Landlord.
4. 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.
5. The Landlord paid the Tenants compensation equal to one month's rent before the termination date in accordance with section 48.1 of the Residential Tenancies Act, 2006 (the Act).
6. There is no last month's rent deposit.

Good Faith

7. Section 48 of the Residential Tenancies Act, 2006 (the "Act") has been interpreted by the Courts as requiring only that a landlord establish that they genuinely intend to move into the unit and live there for residential purposes for at least one year (*Feeney v. Noble*, 1994 CanLII 10538 (ON SC), [1994] O.J. No. 2049 (Div. Ct.)). Neither the reasonableness of the landlord's intention, nor the fact that the landlord may have other motives for wanting to occupy the unit, nor the fact that there might be other available alternatives is the issue (*Salter v. Beljinac*, 2001 CanLII 40231 (ON SCDC), [2001] O.J. No. 2792 (Div. Ct.)). However, the surrounding circumstances may provide circumstantial evidence from which inferences can be drawn when deciding whether a genuine or sincere intention to occupy the unit exists (*Fava v. Harrison*, [2014] O.J. No. 2678 (Div. Ct.)).
8. The Landlord testified that he works in the electrical field in Cornwall, while his wife works remotely from home. He explained to the Board that he purchased the rental property eight and a half years ago; at which time he began renting it to the Tenants. For much of that period, he has been residing in the Middle East but returned to Canada in 2022.
9. Nearly two years ago, he had planned to relocate to Mexico, where he had purchased an investment property. However, those plans were altered due to significant delays in the development project and his mother becoming ill. As a result, he and his wife have decided to remain in Canada, with the property in Mexico now serving as a vacation home and rental property.
10. The Tenant did not dispute the good faith intentions of the Landlord, but rather requested relief from eviction under Section 83.
11. Based on all of the evidence, I am satisfied on a balance of probabilities the Landlord genuinely intends to move into the rental unit and reside there for at least one year. As a result, I am satisfied the N12 Notice was served in good faith.

Relief from eviction

12. The Tenants are both recipients of ODSP and have two children, with a third child due in early April. The Tenant testified that their 7-year-old is non-verbal and autistic and struggles with changes in his environment. She explained that his frequent outbursts and constant screaming make it difficult to find suitable living accommodations. She currently homeschools her children while managing her son's outbursts. The Tenant also shared that her husband is autistic and that she suffers from PTSD as a result of a traumatic event in her childhood.
13. The Tenant told the Board that she is actively looking for alternative housing but primarily uses Facebook for her search, as she does not own a phone. She described the challenges of finding a home large enough to accommodate her family on their limited budget. She applied for housing support over a year ago, but the process is still ongoing. With no family available to take them in, she requested an extension of time, asking for until Spring 2025 to find alternative accommodations if the Landlord's application for eviction is granted.
14. The Landlord testified that he and his wife are currently without a permanent home and are staying with their parents. He described their living situation as uncomfortable, having to move between both parents' homes, especially given that his wife works remotely. While

he expressed understanding and sympathy for the Tenant's circumstances, the Landlord agreed to delay the eviction until Spring 2025 to allow the Tenants more time to secure appropriate housing.


15. 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 May 31, 2025 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 May 31, 2025.
2. If the unit is not vacated on or before May 31, 2025, then starting June 1, 2025, 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 June 1, 2025.

December 9, 2024

Date Issued



Natalie James

Vice Chair, 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 December 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.

