

Order under Section 94 and Subsection 87(1)
Residential Tenancies Act, 2006

File Number: CEL-24037-12

In the matter of: 1166 MINEOLA GARDENS
MISSISSAUGA ON L5G3X9

Between: Probir Chatterjee
Chandra Chatterjee

I certify this is a true copy of the Order/Report,

Landlords

and

Adrian Monrad

Dated 09/08/12 ^{AM}
Angela Miller
Landlord and Tenant Board

Tenant

Probir Chatterjee and Chandra Chatterjee (the 'Landlords') applied for an order to terminate the tenancy and evict Adrian Monrad (the 'Tenant') because the Landlords require possession of the rental unit for the purpose of residential occupation.

The Landlords also applied for an order requiring the Tenant to pay the rent that he owes and claimed compensation for each day the Tenant remained in the unit after the termination date.

This combined application was heard in Mississauga on August 7, 2012.

The Landlords and their Legal Representatives, Tanya Walker and Sandra Deol, as well as the Tenant attended the hearing. The Tenant and the Landlords' representatives attended in person and the Landlords attended by telephone. The Tenant had his young son with him.

At the hearing the Tenant consented to vacating the rental unit by the termination date on the notice. He raised some issues pursuant to s.82 of the *Residential Tenancies Act, 2006*, claiming he was without heat in January due to a breakdown of the furnace and that this had caused his wife to leave him and their baby. He was unprepared to address this issue at the hearing. His claim for the period of time that he was without heat was inconsistent. He also wished to pursue a claim for \$100,000 for the pain and suffering caused by the actions of the Landlords' failure to ensure that heat was provided in a timely way.

An adjournment was not granted because it was too prejudicial to the Landlords who require possession of the rental unit in less than a month, and the next hearing would likely take place after that date. The Tenant is not prejudiced by this as he can still file an application and raise these issues but the Board's monetary jurisdiction is limited to \$25,000.

Determinations:

1. The Landlords in good faith require possession of the rental unit for the purpose of residential occupation.
2. The Tenant did not pay the total rent he was required to pay for the period from June 5, 2012 to August 4, 2012.
3. The Landlords collected a rent deposit of \$1,700.00 from the Tenant and this deposit is still being held by the Landlords.
4. Interest on the rent deposit is owing to the Tenant for the period from September 4, 2011 to August 5, 2012 in the amount of \$48.22.

5. The Landlord incurred charges of \$7.00 for a cheque tendered by or on behalf of the Tenant, which was returned NSF and \$10.00 for related administration charges.
6. 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. The Tenant has consented to vacating the rental unit by September 4, 2012.

It is ordered that:

1. The tenancy between the Landlords and the Tenant is terminated.. The Tenant must move out of the rental unit on or before September 4, 2012.
2. The last month's rent deposit shall apply to the period of August 5, 2012 to September 4, 2012.
3. The Tenant shall pay to the Landlords \$3,400.00, which represents the amount of rent owing up to August 4, 2012.
4. The Tenant shall also pay to the Landlords \$148.78 for the cost of filing the application and NSF charges less the interest on the last month's rent deposit.
5. If the Tenant does not pay the Landlords the full amount owing on or before August 20, 2012, the Tenant will start to owe interest. This will be simple interest calculated from August 21, 2012 at 3.00% annually on the balance outstanding.
6. As of the date of this order, the amount the Landlords is holding for the rent deposit and the interest owing on the deposit exceeds the amount the Tenant owes for compensation by \$3,505.99.
7. If the unit is not vacated on or before September 4, 2012, then starting September 5, 2012, the Landlords may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
8. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlords on or after September 5, 2012.
9. The Tenant shall also pay the Landlord \$55.89 per day for compensation for the use of the unit from September 5, 2012 to the date he moves out of the unit

August 9, 2012
Date Issued



Ieva Martin
Member, Landlord and Tenant Board

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Mississauga Ontario L4Z2G5

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 expires on March 5, 2013 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.