

Order under Section 69
Residential Tenancies Act, 2006

File Number: TSL-28365-12

In the matter of: 105 KEELE STREET
TORONTO ON M6P2J8

Between: Irene Popovic Landlord

and

Lawrence Dostert Tenants
Larry Dostert

Irene Popovic (the 'Landlord') applied for an order to terminate the tenancy and evict Lawrence Dostert and Larry Dostert (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard in Toronto on June 18, 2012.

The Landlord and the Tenant Lawrence Dostert attended the hearing.

All the reasons for this order appear below and no further reasons shall be issued.

Determinations:

Preliminary issue:

1. The Tenant submitted that the rental unit, and the monthly rent, are incorrectly identified in the notice and the application.
2. There is no dispute that the residential complex is a detached, two-storey home. The Tenant moved into the house in July 1995.
3. The Tenant's evidence is that the house is divided into two units. He rents the upper floors and there is a self-contained unit in the basement in which his adult son, the other Tenant named in the application, is the current tenant. The rent for the upper unit is \$926.00 which he pays by cheque. The remainder of the rent claimed in the application and on the notice is the rent for the basement unit which the Tenant pays in cash at the same time as he pays his rent. The Landlord gives him a receipt for the cash payment which he gives to his son.
4. The Landlord's evidence is that the whole house is rented out to the Tenant who moved in with his wife, son and daughter in 1995. In the Landlord's submission, the rental unit includes the basement. The Tenant asked to pay the rent as described so that his son

could get his government cheques. However, by the Landlord's own evidence, she has rented out the basement unit at various times during the tenancy, arrangements that had nothing to do with the Tenant.

5. The balance of evidence before me is that there are two rental units. The rental unit is therefore not identified correctly on the notice and the monthly rent is also incorrect. The notice is therefore not valid. I also find that the application is fatally flawed and must therefore be dismissed.

It is ordered that:

1. The Landlord's application is dismissed.

June 21, 2012

Date Issued

Louise Horton

Member, Landlord and Tenant Board

Toronto South-RO
79 St. Clair Avenue East, Suite 212, 2nd Floor
Toronto ON M4T1M6

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.

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