



Order under Section 21.2 of the Statutory Powers Procedure Act and the Residential Tenancies Act, 2006

Citation: Borreta v Singh, 2023 ONLTB 34089

Date: 2023-05-05

File Number: LTB-L-029189-22-RV

In the matter of: 117 ELLERSLIE RD
BRAMPTON ON L6T4C3

Between: Noel Borreta

And

Gurpreet K Marwah
Ranbir Singh

I hereby certify this is a
true copy of an Order dated

MAY 5, 2023

Landlord and Tenant Board

Landlord

Tenants

Review Order

Noel Borreta (the 'Landlord') applied for an order to terminate the tenancy and evict Gurpreet K Marwah and Ranbir Singh (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was resolved by order LTB-L-029189-22 issued on January 26, 2023.

On March 16, 2023, the Tenants requested a review of the order and that the order be stayed until the request to review the order is resolved. The Tenants alleged that they did not receive the notice of hearing and that they intended to dispute the Landlords application.

On March 17, 2023, interim order LTB-L-029189-22-RV-IN was issued, staying the order issued on January 26, 2023

This review was heard in by videoconference on April 11, 2023. The Landlord's legal representative, C. Williams, and the Tenants attended the hearing. The Tenants spoke with Tenant Duty Counsel on the hearing date.

Determinations:

Review Request - Granted

1. I am satisfied that the Tenants were unable to participate in the hearing on January 18, 2023 because they had not received the notice of hearing. Therefore, the request to review the order is granted.
2. Although the Landlord disputed that the Tenants received the notice of hearing on the basis that the Tenants had admittedly received other documents from the Board, the Landlord and the Sheriff's office because they have a mailbox directly attached to the

rental unit, on a balance of probabilities, I find that the Tenants had not received the hearing notice for the January 18, 2023 hearing.

L1 Application

3. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenants did not void the notice by paying the amount of rent arrears owing by the termination date in the N4 Notice or before the date the application was filed.
4. As of the hearing date, the Tenants were still in possession of the rental unit.
5. The lawful rent is \$2,631.20. It is due on the 1st day of each month.
6. Based on the Monthly rent, the daily rent/compensation is \$86.51. This amount is calculated as follows: $\$2,631.20 \times 12$, divided by 365 days.
7. The Tenants has not made any payments since the application was filed.
8. The parties agree that the rent arrears owing to April 30, 2023 are \$31,574.40.
9. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
10. The Landlord collected a rent deposit of \$2,600.00 from the Tenants and this deposit is still being held by the Landlord. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
11. Interest on the rent deposit, in the amount of \$92.82 is owing to the Tenants for the period from May 1, 2021 to April 11, 2023.
12. The Tenants requested a payment plan in order to preserve the tenancy because they have children in school and are planning to start employment soon. The Tenants had been negatively impacted by Covid and had lost employment. Their family back home in India was supporting them with some money, but no money for their housing. The Tenant plans on starting a job with Uber shortly after the hearing so that they can commit to making payments to the Landlord. Their family supported them to get their vehicle fixed to drive for Uber to bring in revenue. In order to save on childcare costs, the Tenants plan on working opposite shift and that the Uber choice would support their childcare needs.
13. The proposed payment plan of the Tenants would take approximately 87 months to pay back the Landlord at \$368.80 per month. In the alternative, the Tenants requested at least 6 months to find alternative housing to move.
14. The Landlord was opposed to the Tenants payment plan proposal and to permitting occupancy for an additional 6 months on the basis that the Tenants had not paid any money to the Landlord and that they did not have a realistic plan on how to pay back the arrears. The Tenant had not yet secured their employment with Uber and could not provide any evidence at the hearing of what their monthly income would be. The Landlord is struggling financially because the Tenants have not paid rent in almost a year and the amount owed is quickly approaching the Boards monetary jurisdiction.

15. I am not satisfied that a payment plan would be appropriate under the circumstances on the basis that the Tenants payment proposal is largely based on a possibility of employment and on the basis that the payment plan would take more than 7 years before the Landlord would receive the outstanding rent. Also on the basis that the Tenants have not paid the Landlord any rent since the application was filed and owe the Landlord an amount that is close to the Board's monetary jurisdiction.
16. Based on the Tenant having small children at home, I find it reasonable to provide a brief delay to either pay the Landlord to void the order or to seek accommodations elsewhere.
17. 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, 2023 pursuant to subsection 83(1)(b) of the Act.

It is ordered that:

1. The request to review order LTB-L-029189-22 issued on January 26, 2023, is granted. The order is cancelled and replaced with the following order.
 2. The interim order issued on March 17, 2023 is also cancelled and replaced with the following order.
 3. The tenancy between the Landlord and the Tenants is terminated unless the Tenants void this order.
1. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$34,391.60 if the payment is made on or before May 31, 2023. See Schedule 1 for the calculation of the amount owing.
 2. The Tenants may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenants have paid the full amount owing as ordered plus any additional rent that became due after May 31, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.
 3. **If the Tenants do not pay the amount required to void this order the Tenants must move out of the rental unit on or before May 31, 2023**
 4. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$27,387.99. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenants. See Schedule 1 for the calculation of the amount owing.
 5. The Tenants shall also pay the Landlord compensation of \$86.51 per day for the use of the unit starting April 12, 2023 until the date the Tenants move out of the unit.
 6. If the Tenants do not pay the Landlord the full amount owing on or before May 16, 2023, the Tenants will start to owe interest. This will be simple interest calculated from May 17, 2023 at 6.00% annually on the balance outstanding.

7. If the unit is not vacated on or before May 31, 2023, then starting June 1, 2023, the Landlord 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 Landlord on or after June 1, 2023.

May 5, 2023
Date Issued



Terri van Huisstede
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 expires on December 1, 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.

*Note: When the Board directs payment-out, the Canadian Imperial Bank of Commerce will issue a cheque to the appropriate party named in this notice. The cheque will be in the amount directed plus any interest accrued up to the date of the notice

**Schedule 1
SUMMARY OF CALCULATIONS**

A. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before May 31, 2023

Rent Owing To May 31, 2023	\$34,205.60
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants are entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$34,391.60

B. Amount the Tenants must pay if the tenancy is terminated

Rent Owing To Hearing Date	\$29,894.81
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$2,600.00
Less the amount of the interest on the last month's rent deposit	- \$92.82
Less the amount the Landlord owes the Tenants for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants are entitled to	- \$0.00
Total amount owing to the Landlord	\$27,387.99
Plus daily compensation owing for each day of occupation starting April 12, 2023	\$86.51 (per day)