



Order under Section 69 Residential Tenancies Act, 2006

Citation: Denhartogh v Baxter, 2024 ONLTB 11342

Date: 2024-02-14

File Number: LTB-L-067136-23

In the matter of: 64 GLENDALE AVE N
HAMILTON ON L8L7J7

Between: Bergen Gerrit Denhartogh
Sarah Grace Penman

And

Jamie-lee Baxter
Michael Baxter

I hereby certify this is a
true copy of an Order dated
FEB 14, 2024
Landlord and Tenant Board

Landlords

Tenants

Bergen Gerrit Denhartogh and Sarah Grace Penman (the 'Landlords') applied for an order to terminate the tenancy and evict Jamie-lee Baxter and Michael Baxter (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on January 25, 2024.

Only the Landlords' Legal Representative, Lisa Barder, attended the hearing.

As of 2:11 PM, the Tenants was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlords' evidence.

Determinations:

1. The Landlords 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.
2. As of the hearing date, the Tenants were still in possession of the rental unit.
3. The lawful rent is \$2,600.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$85.48. This amount is calculated as follows: \$2,600.00 x 12, divided by 365 days.
5. The Tenants have paid \$1,000.00 to the Landlords since the application was filed.
6. The rent arrears owing to January 31, 2024, are \$14,200.00.
7. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

8. The Landlords collected a rent deposit of \$2,600.00 from the Tenants and this deposit is still being held by the Landlords. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
9. Interest on the rent deposit, in the amount of \$61.44 is owing to the Tenants for the period from February 15, 2023, to January 25, 2024.

Section 83

10. Section 83 requires that I consider all the circumstances, including the Tenants' and the Landlords' situations to determine if it would be appropriate to grant section 83 relief from eviction.
11. The Landlords' representative advised that the Landlords have tried to reach out to the Tenants for a repayment plan, without success. There are substantial arrears owing and the Tenants did not attend the hearing, and thus did not provide any evidence that may be relevant to my determination under s. 83.
12. I have considered all of the disclosed circumstances in accordance with subsection 83 of the *Residential Tenancies Act, 2006* (RTA), including whether the Landlords attempted to negotiate a repayment agreement with the Tenants, and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

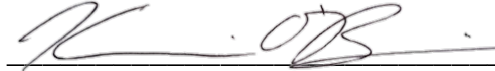
It is ordered that:

1. The tenancy between the Landlords and the Tenants is terminated unless the Tenants void this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlords or to the LTB in trust:**
 - \$16,986.00 if the payment is made on or before February 25, 2024. See Schedule 1 for the calculation of the amount owing.
3. 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 February 25, 2024, but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.
4. **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 February 25, 2024.**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlords \$11,261.56. 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 Landlords owe on the rent deposit are deducted from the amount owing by the Tenants. See Schedule 1 for the calculation of the amount owing.
6. The Tenants shall also pay the Landlords compensation of \$85.48 per day for the use of the unit starting January 26, 2024, until the date the Tenants move out of the unit.

7. If the Tenants do not pay the Landlords the full amount owing on or before February 25, 2024, the Tenants will start to owe interest. This will be simple interest calculated from February 26, 2024, at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before February 25, 2024, then starting February 26, 2024, the Landlords may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
9. 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 February 26, 2024.

February 14, 2024

Date Issued



Kevin O'Brien

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 August 26, 2024, 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.

**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 February 25, 2024

Rent Owing To February 29, 2024	\$17,800.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlords since the application was filed	- \$1,000.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlords owes the Tenants for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$16,986.00

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

Rent Owing To Hearing Date	\$14,737.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlords since the application was filed	- \$1,000.00
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	- \$61.44
Less the amount the Landlords owes the Tenants for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$0.00
Total amount owing to the Landlords	\$11,261.56
Plus daily compensation owing for each day of occupation starting January 26, 2024	\$85.48 (per day)