



Order under Section 69 Residential Tenancies Act, 2006

Citation: Serratore v Vaughan, 2023 ONLTB 26507

Date: 2023-03-21

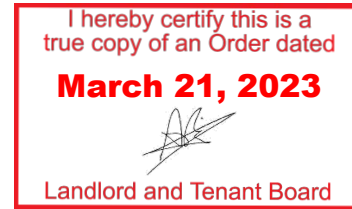
File Number: LTB-L-034614-22

In the matter of: #2, 99 MELROSE AVE S
HAMILTON ON L8M2Y7

Between: Cory Serratore and Silvia Skobla

And

Theresa Vaughan



Landlord

Tenant

Cory Serratore and Silvia Skobla (the 'Landlord') applied for an order to terminate the tenancy and evict Theresa Vaughan (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on February 1, 2023.

Only the Landlords attended the hearing.

As of 3:26 pm when the hearing began, the Tenant was not present or represented at the hearing. The Landlords stated the Tenant had been present earlier on, had consulted with Tenant Duty Counsel, but then left the videoconference altogether. The Landlords indicated they exchanged text messages with the Tenant, who told them she was experiencing anxiety and opted to leave, but the Tenant indicated that they hold the hearing without her. I asked the Landlords to submit the exchanged text message as evidence -- I can confirm the Landlords did send the exchanged text messages into the Board later on February 1, 2023. The text messages are entered as exhibit LL#1 into the legal record. As there was no record of a request to adjourn the hearing, and considering the Tenant directed the Landlords to carry on with the hearing without her, I proceeded with only the Landlords' evidence.

Determinations:

1. The Landlords served the Tenant with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenant 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 Tenant was still in possession of the rental unit.
3. The monthly rent is \$2,300.00. It is due on the 1st day of each month.
4. Based on the monthly rent, the daily rent/compensation is \$75.62. This amount is calculated as follows: \$2,300.00 x 12, divided by 365 days.

5. As of the date of the hearing, the Tenant has paid \$5,300.00 to the Landlord since the application was filed. (This amount includes the \$1,000.00 payment made by the Tenant on February 1, 2023.)
6. After accounting for the \$5,300.00 paid by the Tenant, the rent arrears owing to January 31, 2023 were \$14,200.00. As another two months of rent have become due for February 2023 and March 2023, the arrears are currently \$18,800.00 (If the Tenant has made any rent payments in February 2023 or March 2023, then these will needed to be accounted for separately.)
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$2,300.00 from the Tenant 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.
9. Interest on the rent deposit, in the amount of \$48.36 is owing to the Tenant for the period from April 1, 2022 to February 1, 2023.
10. The Landlords made submissions concerning payment efforts (e.g. on the portal) and about circumstances they were aware of. As part of their submissions, the Landlords claimed the Tenant provided them with fraudulent information about the Tenant for the purposes of this tenancy. I did not take submissions on this claim, trying to limit my consideration to relevant circumstances that are required to be considered under the statutes.
11. have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenant 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 Tenant is terminated unless the Tenant voids this order.
2. **The Tenant may void this order and continue the tenancy by paying to the Landlords or to the LTB in trust:**
 - \$18,986.00 if the payment is made on or before March 31, 2023. See Schedule 1A for the calculation of the amount owing.

OR

 - \$21,286.00 if the payment is made on or before April 1, 2023. See Schedule 1B for the calculation of the amount owing.
3. The Tenant may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenant has paid the full amount owing as ordered plus any additional rent


that became due after April 1, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.

4. **If the Tenant does not pay the amount required to void this order the Tenant must move out of the rental unit on or before April 1, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$12,113.26. 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 Tenant. See Schedule 1C for the calculation of the amount owing.
6. The Tenant shall also pay the Landlords compensation of \$75.62 per day for the use of the unit starting February 2, 2023 until the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlords the full amount owing on or before April 1, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 2, 2023 at 5.00% annually on the balance outstanding.
8. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
9. If the unit is not vacated on or before April 1, 2023, then starting April 2, 2023, the Landlords may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
10. 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 April 2, 2023.

March 21, 2023

Date Issued

15 Grosvenor Street, Ground Floor
Toronto ON M7A 2G6



Alex Brkic

Member, Landlord and Tenant Board

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 October 2, 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 Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before March 31, 2023

| | |
|---|--------------------|
| Rent Owing To March 31, 2023 | \$24,100.00 |
| Application Filing Fee | \$186.00 |
| NSF Charges | \$0.00 |
| Less the amount the Tenant paid to the Landlords since the application was filed | - \$5,300.00 |
| Less the amount the Tenant paid into the LTB since the application was filed | - \$0.00 |
| Total the Tenant must pay to continue the tenancy | \$18,986.00 |

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before April 1, 2023

| | |
|---|--------------------|
| Rent Owing To April 30, 2023 | \$26,400.00 |
| Application Filing Fee | \$186.00 |
| NSF Charges | \$0.00 |
| Less the amount the Tenant paid to the Landlords since the application was filed | - \$5,300.00 |
| Less the amount the Tenant paid into the LTB since the application was filed | - \$0.00 |
| Total the Tenant must pay to continue the tenancy | \$21,286.00 |

C. Amount the Tenant must pay if the tenancy is terminated

| | |
|---|----------------------|
| Rent Owing To Hearing Date (February 1, 2023) | \$19,575.62 |
| Application Filing Fee | \$186.00 |
| NSF Charges | \$0.00 |
| Less the amount the Tenant paid to the Landlords since the application was filed | - \$5,300.00 |
| Less the amount the Tenant paid into the LTB since the application was filed | - \$0.00 |
| Less the amount of the last month's rent deposit | - \$2,300.00 |
| Less the amount of the interest on the last month's rent deposit | - \$48.36 |
| Total amount owing to the Landlords | \$12,113.26 |
| Plus daily compensation owing for each day of occupation starting February 2, 2023 | \$75.62 (per day) |