

Order under Section 69
Residential Tenancies Act, 2006

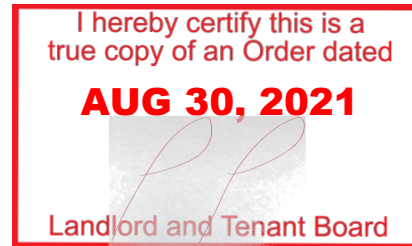
File Number: CEL-00475-21

In the matter of: 2, 5 MAIN STREET E
DUNDALK ON N0C1B0

Between: Sandro Di Pasquale
2015661 Ontario Limited

and

Stephanie Kelly



Landlords

Tenant

Sandro Di Pasquale and 2015661 Ontario Limited (the 'Landlords') applied for an order to terminate the tenancy and evict Stephanie Kelly (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on July 30, 2021.

The Landlords and the Tenant attended the hearing. The Landlord was represented by Ashley Friel.

Determinations:

1. The Tenant has not paid the total rent the Tenant was required to pay for the period from February 1, 2020 to July 31, 2021. Because of the arrears, the Landlords served a Notice of Termination effective April 19, 2021.
2. The Tenant is in possession of the rental unit.
3. The lawful monthly rent is \$1,000.00.
4. The Tenant made no payments since the application was filed.
5. The arrears and costs owing to July 31, 2021 total \$5,803.28.
6. The Landlord seeks a standard, voidable eleven-day order.

TENANT'S REQUEST FOR RELIEF

7. The Tenant does not dispute the quantum of arrears as claimed by the Landlord, although she believes that she is entitled to compensation for her issues; however, given that the Tenant did not comply with the requirements set out in subsection 82(2) of the

Act, I informed the Tenant that I could not hear her claims but that she was not barred from filing her own application as long as it was within the limitation period. The Tenant confirmed she did not make any payments to the Landlord since the application was filed.

8. The Tenant explains that she fell into rent arrears due to a loss of her job as a result of an accident. As of the date of the hearing, she was waiting for her maternity leave funds to be processed. The Tenant sought to preserve her tenancy and was confident in her ability to pay the rent on time beginning August 2021. The Tenant was not sure of how she would be able to repay the arrears to the Landlord.
9. The Tenant testified that her monthly household income totalled \$1,544.00 which consisted of the Employment Insurance benefits that she received on a weekly basis. Her monthly expenses totalled \$1,300.00 which consisted of her rent, car insurance payments, hydro bill and cell phone bill. The Tenant testified that she went to the food bank and thus, did not have grocery expenses.
10. In the alternative, the Tenant sought a delay in eviction of 45 days so that she could secure alternative housing. The Tenant testified that she moved into the rental unit in February 2020 and is the sole occupant. She is currently in a high-risk pregnancy and booked for surgery in mid-September.
11. The Landlord opposed the Tenant's request for relief as the Tenant had not paid any rent since accruing arrears in February 2021. The Landlord was agreeable to a brief delay in eviction of 30 days.

ANALYSIS

12. Based on the evidence before the Board, I find the arrears and costs owing to July 31, 2021 total \$5,803.28. This is undisputed.
13. With respect to the Tenant's request for relief, while the Tenant did not present a precise repayment plan for the rent arrears, the Tenant also did not file documentary evidence in support of her assertion that she would be receiving additional funds. With the evidence before the Board, after the income is subtracted by the expenses, it appears the Tenant is left with \$244.00. With a newborn on the way, I find that a repayment plan tying the Tenant to specific amounts and dates seems to be unrealistic and will put the Tenant in further financial distress.
14. Therefore, I cannot grant the Tenant's request for a payment plan. I can however consider whether to postpone the eviction pursuant to subsection 83(1)(b) of the Act.
15. Given the length of this tenancy, balancing that with the fact that no payments have been made to the Landlord, and considering the Tenant's personal circumstances – specifically her pregnancy, I find a delay in eviction is warranted in this situation.
16. The Landlords collected a rent deposit of \$1,000.00 from the Tenant and this deposit is still being held by the Landlords.

17. Interest on the rent deposit is owing to the Tenant for the period from January 31, 2020 to April 19, 2021.
18. I have considered all of the disclosed circumstances in accordance with subsection 83 of the Residential Tenancies Act, 2006 (RTA), 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 not be unfair to postpone the eviction until September 30, 2021 pursuant to subsection 83(1)(b) of the Act.
19. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

It is ordered that:

1. Unless the Tenant voids the order as set out below, the tenancy between the Landlords and the Tenant is terminated. The Tenant must move out of the rental unit on or before September 30, 2021.
2. The Tenant shall pay to the Landlords \$5,613.78*, which represents the amount of rent owing and compensation up to August 30, 2021, less the rent deposit and interest the Landlords owe on the rent deposit.
3. The Tenant shall also pay to the Landlords \$32.88 per day for compensation for the use of the unit starting August 31, 2021 to the date the Tenant moves out of the unit.
4. The Tenant shall also pay to the Landlords \$186.00 for the cost of filing the application.
5. If the Tenant does not pay the Landlords the full amount owing* on or before September 30, 2021, the Tenant will start to owe interest. This will be simple interest calculated from October 1, 2021 at 2.00% annually on the balance outstanding.
6. If the unit is not vacated on or before September 30, 2021, then starting October 1, 2021, the Landlords may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
7. 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 October 1, 2021.
8. **If the Tenant wishes to void this order and continue the tenancy, the Tenant must pay to the Landlords or to the Board in trust:**
 - i) **\$6,803.28 if the payment is made on or before August 31, 2021, or**
 - ii) **\$7,803.28 if the payment is made on or before September 30, 2021**.****If the Tenant does not make full payment in accordance with this paragraph and by the appropriate deadline, then the Landlords may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.**
9. The Tenant may make a motion to the Board under subsection 74(11) of the Act to set aside this order if they pay the amount required under that subsection on or after October 1, 2021 but before the Sheriff gives vacant possession to the Landlords. The Tenant is

only entitled to make this motion once during the period of the tenancy agreement with the Landlords.



August 30, 2021
Date Issued

Sonia Anwar-Ali
Member, Landlord and Tenant Board

Central-RO
3 Robert Speck Pkwy, 5th Floor
Mississauga ON 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 April 1, 2022 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.

- * Refer to section A on the attached Summary of Calculations.
- ** Refer to section B on the attached Summary of Calculations.

**Schedule 1
SUMMARY OF CALCULATIONS**

File Number: CEL-00475-21

A. Amount the Tenant must pay if the tenancy is terminated:

| Reasons for amount owing | Period | Amount |
|---|------------------------------------|---|
| Arrears: (up to the termination date in the Notice of Termination) | February 1, 2020 to April 19, 2021 | \$2,241.94 |
| Plus compensation: (from the day after the termination date in the Notice to the date of the order) | April 20, 2021 to August 30, 2021 | \$4,373.04 |
| Less the rent deposit: | | -\$1,000.00 |
| Less the interest owing on the rent deposit: | January 31, 2020 to April 19, 2021 | -\$1.20 |
| Amount owing to the Landlords on the order date: (total of previous boxes) | | \$5,613.78 |
| Additional costs the Tenant must pay to the Landlords: | | \$186.00 |
| Plus daily compensation owing for each day of occupation starting August 31, 2021: | | \$32.88 (per day) |
| Total the Tenant must pay the Landlords if the tenancy is terminated: | | \$5,799.78, + \$32.88 per day starting August 31, 2021 |

B. Amount the Tenant must pay to void the eviction order and continue the tenancy:

1. If the payment is made on or before August 31, 2021:

| Reasons for amount owing | Period | Amount |
|---|-------------------------------------|-------------------|
| Arrears: | February 1, 2020 to August 31, 2021 | \$6,617.28 |
| Additional costs the Tenant must pay to the Landlords: | | \$186.00 |
| Total the Tenant must pay to continue the tenancy: | On or before August 31, 2021 | \$6,803.28 |

2. If the payment is made after August 31, 2021 but on or before September 30, 2021:

| Reasons for amount owing | Period | Amount |
|---|--|-------------------|
| Arrears: | February 1, 2020 to September 30, 2021 | \$7,617.28 |
| Additional costs the Tenant must pay to the Landlords: | | \$186.00 |
| Total the Tenant must pay to continue the tenancy: | On or before September 30, 2021 | \$7,803.28 |