



Order under Section 69 Residential Tenancies Act, 2006

Citation: Swaving v Love, 2024 ONLTB 14498

Date: 2024-03-06

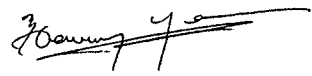
File Number: LTB-L-061046-23

In the matter of: Upper unit, 540 COLQUHOUN ST
FERGUS ON N1M1S1

Between: Jared Swaving
Lydia Swaving
E-Van Management

And

Sarah Elise Love

I hereby certify this is a true copy of an Order dated
MAR 6, 2024

Landlord and Tenant Board

Landlords

Tenant

Jared Swaving, Lydia Swaving and E-Van Management (the 'Landlords') applied for an order to terminate the tenancy and evict Sarah Elise Love (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 15, 2024.

Only the Landlords, the Landlords' Agent, Richard Vangrootheest, and the Landlords' Legal Representative, Tim Kelly, attended the hearing.

As of 1:40PM, the Tenant 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 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 lawful rent is \$2,440.00. It is due on the 15th day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$80.22. This amount is calculated as follows: \$2,440.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to February 14, 2024 are \$22,230.00.

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 \$2,500.00 from the Tenant 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 \$99.32 is owing to the Tenant for the period from June 15, 2022 to January 15, 2024.
10. The Landlords submitted that there were discussions with the Tenant about payment plans to address the arrears at various times. However, the parties were unable to come to a resolution.
11. The Landlords submitted that they are a small Landlords. The arrears are causing a significant financial hardship. The Landlords testified that the Tenant has refused entry to the unit and the Landlords has had to call the police to attend.
12. I 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 Landlords 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:**
 - \$24,416.00 if the payment is made on or before March 14, 2024. See Schedule 1 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 March 17, 2024 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 March 17, 2024**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlords \$17,456.90. 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 owes on the rent deposit are deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlords compensation of \$80.22 per day for the use of the unit starting January 16, 2024 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 March 17, 2024, the Tenant will start to owe interest. This will be simple interest calculated from March 18, 2024 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before March 17, 2024, then starting March 18, 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 March 18, 2024.

March 6, 2024
Date Issued


 Henry Yeung
 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 September 18, 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 Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before March 14, 2024

Rent Owing To March 14, 2024	\$24,700.00
Application Filing Fee	\$186.00
Total the Tenant must pay to continue the tenancy	\$24,886.00

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

Rent Owing To Hearing Date	\$19,870.22
Application Filing Fee	\$186.00
Less the amount of the last month's rent deposit	- \$2,500.00
Less the amount of the interest on the last month's rent deposit	- \$99.32
Total amount owing to the Landlords	\$17,456.90
Plus daily compensation owing for each day of occupation starting January 16, 2024	\$80.22 (per day)