



**Order under Section 69
Residential Tenancies Act, 2006**

Citation: Enemuoh v Crocker, 2024 ONLTB 26301

Date: 2024-04-19

File Number: LTB-L-011029-23

In the matter of: 107 Jarvis
Cornwall ON K6H5J1

Between: Obinna Onyeka Enemuoh

And

Tyson Crocker

I hereby certify this is a
true copy of an Order dated
APR 19, 2024
Landlord and Tenant Board

Landlord

Tenant

Obinna Onyeka Enemuoh (the 'Landlord') applied for an order to terminate the tenancy and evict Tyson Crocker (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on March 26, 2024.

The Landlord, Obinna Onyeka Enemuoh and the Tenant, Tyson Crocker attended the hearing.

The Tenant spoke with Tenant Duty Counsel prior to the hearing.

Determinations:

L1 Rent Arrears Application:

1. The Landlord 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. The Tenant was in possession of the rental unit on the date the application was filed.
3. The Tenant vacated the rental unit on April 30, 2023. Rent arrears are calculated up to the date the Tenant vacated the unit.
4. The lawful rent is \$1,500.00. It was due on the 1st day of each month.
5. The Tenant has not made any payments since the application was filed.

Analysis

6. The Landlord submitted into evidence the L1/L9 Application – Information Update Form, claiming a total arrears of \$7,600.00 which represents the outstanding rent for the rental periods of December 1, 2022 to May 31, 2023.

7. The Landlord claimed rent for the rental period of May 1 to May 31 2023 despite the Tenant vacating the rental unit on April 30, 2023, asserting that rent was owing to that date, as the Tenant did not provide adequate notice to vacate to the Landlord.
8. The Landlord's notice to terminate the tenancy for non-payment of rent listed January 29, 2023 as the termination date. This means that as of the termination date of January 30, 2023, the Tenant became "an overholding tenant", only liable for daily compensation up to the date they vacate the unit. Subsection 134(1.1) of the Act says:

No landlord shall, directly or indirectly, with respect to any rental unit, collect or require or attempt to collect or require from a former tenant of the rental unit any amount of money purporting to be rent in respect of

(a) Any period after the tenancy has terminated and the tenant has vacated the rental unit; or

(b) Any period after the tenant's interest in the tenancy has terminated and the tenant has vacated the rental unit.

9. As a result, I find that the Landlord is not entitled to rent arrears of \$1,500.00 for the rental period of May 1 to May 31, 2023.
10. The Tenant only disputed the payment of one month's rent for the month of January 2023. The Tenant testified that they paid rent for the rental period of January 1 to January 31, 2023 in the amount of \$1,500.00 via e-transfer. The Landlord said that they could not accept the payment as the password did not work to accept the e-transfer, and rent for that rental period remains outstanding. The Tenant was unable to provide any dates, emails, correspondence, or any other documentation from their bank to demonstrate that the payment was received by the Landlord.
11. On the evidence before me, I am satisfied on a balance of probabilities, that the Tenant did not pay rent to the Landlord for the period of January 1 to January 31, 2023 and the rent remains outstanding.
12. I find the rent arrears owing to April 30, 2023 are \$6,100.00.
13. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
14. The Landlord collected a rent deposit of \$1,500.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit is applied to the arrears of rent because the tenancy terminated.
15. Interest on the rent deposit, in the amount of \$8.84 is owing to the Tenant for the period from February 4, 2023 to April 30, 2023.

Section 82 – Issues a Tenant may raise in Non-Payment of Rent Application

16. Pursuant to section 82 of the Act, the Tenant raised tenant rights issues in response to the Landlord's application, claiming harassment by the Landlord and illegal entry into the rental unit.
17. In order for a Tenant to raise issues under section 82 of the Act, they must give advance written notice to the Landlord of the issues to be raised, in accordance with the LTB Rules of Procedure, or advise why they could not comply with the Rules. Rule 19.4 of the Rules, it states that the Tenant shall provide all other parties and the LTB with written descriptions of the issues intended to be raised and all documents or evidence to be relied upon at least 7 days before the scheduled hearing.
18. The Tenant had advised they did not provide advance notice of their claims as they were unaware of this requirement until they spoke with Tenant Duty Counsel.
19. The Tenant advised that he wished to raise issues regarding harassment by the Landlord and illegal entry. Although the Tenant did not describe these issues prior to the hearing, he uploaded numerous videos to the Tribunals Ontario Portal between March 19, 2024 to March 20, 2024. These videos were not served on the Landlord. The Landlord advise the Board that he did not object to hearing the Tenant's. Therefore, the Tenant's claims proceeded to be heard.

Harassment & Illegal Entry

20. The Tenant stated that there was ongoing harassment by the Landlord from October 2022 up until the Tenant vacated the rental unit on April 30, 2023.
21. The Tenant stated that there were various instances of harassing behaviour of the Landlord as illustrated in videos submitted into evidence.
22. The Tenant was unable to state the date of when the incidents captured on video took place, however he submitted that it was sometime in the Winter 2022 to January-February 2023.
23. The Tenant alleged the Landlord entered the unit illegally, pushed him, and would drive by his house in his car with his wife and would stay on his street. The Tenant was unable to provide dates of these incidents, however said it took place between Fall 2022 through Spring 2023. The Tenant further said that Police got involved on a few occasions, and one video that was entered into evidence showed the Tenant speaking with Police about the Landlord. The Tenant was unable to confirm a date of this incident.
24. The Tenant testified that they did not have a good experience living at the rental unit, as they were nervous while living there and felt they could not have guests over due to the Landlord's actions.
25. As per s. 29(2) of the Act, "No application may be made under subsection (1) more than one year after the day the alleged conduct giving rise to the application occurred." This means, anything claimed beyond that time cannot be considered, and a remedy cannot be granted. As the Tenant said there were incidents that occurred from Fall 2022 to Spring 2023, anything that was claimed prior to March 19, 2023, I did not consider.

26. Prior to the date the Tenant submitted the videos onto the Tribunals Ontario Portal, there was no notice to the Landlord or the LTB that the Tenant intended to raise s.82 issues at this hearing. This matter was originally scheduled to be heard on September 26, 2023, however was adjourned due to scheduling overflow. The LTB file indicates that the Notice of Adjourned Hearing was sent by email to the parties on September 28, 2023. I find that the Tenant received the new Notice of Adjourned Hearing on or about September 28, 2023 and had since that time to make his claim known. The Notice of Hearing, provided to the Tenant states: "For the Tenant: You will need to complete "Issues a Tenant Can Raise at a Hearing about a Landlord's Application for Non-Payment of Rent" form found on the LTB website to submit to the LTB prior to the hearing, if any issues are present." The Tenant had time to make their "older" claims known earlier, however they did not file written notice of issues they experienced in the rental unit until today, limiting the period for a remedy to March 19, 2023.
27. Having heard the evidence of the parties and considered the events that took place between March 19, 2023 and when the Tenant vacated the rental unit in April 30, 2023, I am not satisfied, on a balance of probabilities, that any issues that the Tenant claimed rise to the level of harassment by the Landlord or demonstrate illegal entry into the rental unit. The Tenant was unable to provide details surrounding the dates of the events, and there was insufficient evidence before me to clarify what the claims were, or to provide the Landlord with sufficient information to respond to the claims made. As a result, the Tenant's claims must be dismissed.
28. It is clear there has been a difficult relationship between the Landlord and Tenant, and there was ongoing animosity amongst them, however I am not convinced that the incidents as described by the Tenant amount to harassment.

It is ordered that:

1. The Tenant's claims for harassment and illegal entry made under s.82 of the *Residential Tenancies Act, 2006*, are dismissed.
2. The tenancy between the Landlord and the Tenant is terminated as of April 30, 2023, the date the Tenant moved out of the rental unit.
3. The Tenant shall pay to the Landlord \$4,777.16. This amount includes rent arrears owing up to the date the Tenant moved out of the rental unit and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit is deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.
4. If the Tenant does not pay the Landlord the full amount owing on or before April 30, 2024, the Tenant will start to owe interest. This will be simple interest calculated from May 1, 2024 at 7.00% annually on the balance outstanding.

April 19, 2024
Date Issued

Nathalia Debski

Nathalia Debski
Member, Landlord and Tenant Board

15 Grosvenor St, 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.

Schedule 1
SUMMARY OF CALCULATIONS

A. Amount the Tenant must pay as the tenancy is terminated

Rent Owing To Move Out Date	\$6,100.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
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	- \$1,500.00
Less the amount of the interest on the last month's rent deposit	- \$8.84
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlord	\$4,777.16