



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

Citation: Morguard NAR Canada Limited Partnership v Jackson, 2023 ONLTB 64617

Date: 2023-09-29

File Number: LTB-L-032069-23

In the matter of: 410, 1477 MISSISSAUGA VALLEY BLVD
MISSISSAUGA ON L5A3Y4

Between: Morguard NAR Canada Limited Partnership Landlord

And

Rachel Jackson and Philip Clarke Tenants

Morguard NAR Canada Limited Partnership (the 'Landlord') applied for an order to terminate the tenancy and evict Rachel Jackson ('RJ') and Philip Clarke ('PC') (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on August 29, 2023.

The Landlord's representative, F. McGregor, and the Tenants attended the hearing.

Determinations:

1. The Landlord 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 \$2,069.41. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$68.04. This amount is calculated as follows: \$2,069.41 x 12, divided by 365 days.
5. The Tenant has paid \$8,653.08 to the Landlord since the application was filed.
6. The rent arrears owing to August 31, 2023 are \$2,139.77.
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 \$2,180.86 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 \$36.00 is owing to the Tenant for the period from January 1, 2023 to August 29, 2023.

10. The Tenants did not dispute the amount of arrears owing but requested that they be allowed time to pay off the arrears. They have lived in the unit for three years and the arrears presently outstanding amount to roughly one month's rent. I note that the Tenants made an additional payment to the Landlord shortly before the hearing and after the Landlord had filed the L1/L9 update sheet with the Board.
11. The Tenants testified that they would need some time to repay the arrears as the Tenant RJ was to be going on maternity leave in October 2023 and the household income would be dropping somewhat as of that time. They wanted to ensure that a payment plan, if any, was one they could commit to meeting.
12. The Landlord's representative objected to any order providing a payment plan on the basis that the Tenants' ability to make such payments was doubtful in light of the Tenants' own testimony about their projected income and expenses.
13. According to the Tenants' testimony:
 - a) As of October 2023 the Tenants' total monthly income would amount to \$3,500.00. The Tenant RJ initially estimated that their combined income would be \$3,000.00 but modified this estimate on testifying about the details of the Tenants' monthly budget;
 - b) The Tenants' total expenses, based on recent actual expenditures, amounted to roughly \$950.00, allowing for a reduction on car insurance following the anticipated sale of a car which is not fully operational; and
 - c) After deducting payment of monthly rent in the amount of \$2,069.41, the Tenants would be left with an anticipated \$480.00 surplus if the \$3,500.00 income estimate is correct.
14. I found the Tenants' testimony about their anticipated budget to be credible. The amount of arrears is not excessive and, in my view, may reasonably be expected to be repaid over a relatively short period. I find that an order compelling payment of the arrears over 8 months and paying rent on time during the period of the repayment, subject to the protection accorded the Landlord under section 78 of the *Residential Tenancies Act, 2006* (the 'Act'), sets a reasonable balance to the interests of both the Landlord and the Tenants.
15. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.

It is ordered that:

1. The Tenants shall pay to the Landlord \$2,325.77, consisting of the \$2,139.77 in rent arrears plus the Landlord's \$186.00 application filing fee, according to the following schedule:

- \$300.00 on the 15th day of each month for 7 months beginning October 15, 2023 through to April 15, 2023; and
 - \$225.77 on or before May 15, 2024.
2. The Tenants shall pay the monthly rent according to the following schedule:
- Rent for the month of September 2023 in full on or before September 30, 2023; and
 - Monthly rent in full on or before the first of each month beginning October 1, 2023 through to May 1, 2024 or the first of the month in which the arrears are fully paid, whichever comes earlier.
3. If the Tenants fail to make any one of the payments in accordance with paragraphs 1 or 2 of this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenants to the Landlord pursuant to paragraph 1 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenants, apply to the Board pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenants and requiring that the Tenants pay any new arrears, NSF fees and related charges.

September 29, 2023
Date Issued

L Mitchell

Lynn Mitchell
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.