



May 24, 2022

Landlord and Tenant Board

Order under Subsection 87(1)
Residential Tenancies Act, 2006

File Number: LTB-L-021873-22

In the matter of: Main Floor, 6465 LESKARD RD
ORONO ON L0B1M0

Between: Bonnie Margaret Reynolds Landlords
Erica Dawn Haarlammert

And

Darryl McKay Tenants
David McKay
Frank McKay

Bonnie Margaret Reynolds and Erica Dawn Haarlammert ('the Landlords') applied for an order requiring Darryl McKay, David McKay, Frank McKay (the 'Tenants') to pay the rent that the Tenants owe.

This application was heard by videoconference on May 19, 2022.

The Landlord, Erica Haarlammert and the Landlord's representative, Leonel Espejo attended the hearing. Pam Shields attended the hearing as a support person for the Landlord.

The hearing commenced at 09:29 a.m. as an uncontested matter as the Tenants were not in attendance nor were they represented although properly served with the Notice of Hearing. The Tenants Darryl McKay and David McKay did attend the hearing at approximately 9:50 a.m. citing difficulties logging into the hearing as the reason for being late.

The parties engaged in private discussions in an attempt to resolve the matter however as the terms of a consent could not be reached, the hearing commenced at approximately 12:05 p.m.

Tenant Duty Counsel attended the hearing however left prior to the Tenants arrival. The Tenant, Darryl McKay (DM) who spoke on behalf of the Tenants indicated he had previously obtained legal advice.

Determinations:

The N4 Notice

1. In reviewing the Notice to End your Tenancy for Non-payment of Rent (N4) filed with the Board and forming the basis of the Landlord's application, it was noted that the rental periods identified on page 2 of the N4 were incorrect. The first row identified a rental period from December 31, 2021 to January 31, 2022, rows 2 and 3 of the Notice each identified the rental period as the first day of each month to the last day of each month for February and March 2022.

2. At the hearing it was agreed that the rental periods are bi-weekly. As this is not accurately reflected on the N4 notice which had been served to the Tenants, I find the Notice is flawed and is considered invalid.
3. The Landlords requested conversion of the L1 application to an L9 application to collect rent without any termination of the tenancy. This request was not disputed by the Tenants. The L1 application was converted to an L9 application (rent arrears only).

Rent Arrears

4. As of the hearing date, the Tenants remain in possession of the rental unit.
5. The bi-weekly rent is \$650.00.
6. The Tenants have not paid the total rent they were required to pay up to May 19, 2022.
7. The Landlord testified the total rent owing to May 19, 2021 is \$5850.00. (the next rental period begins May 20, 2022). While the Tenants did not confirm the amount claimed by the Landlord as correct, they did not file nor did they have in their possession any information to dispute the amount owed. Based on the evidence before me, on a balance of probabilities, I find the total arrears owing to May 19, 2022 is \$5850.00.
8. The Tenants have made no payments to the Landlord since the application was filed.
9. DM stated he is in possession of the rent money owed to the Landlord; it was not paid due to other Landlord/Tenant issues. Under section 82 of the Act, the Board shall permit tenants to raise any issue that could be the subject of an application made by the tenants under this Act. However, the Tenants were required to provide the Landlord with advance notice of their intention to raise section 82 at the hearing. The Tenant admitted he has failed to comply with this requirement. He confirmed he was aware of the hearing date well in advance of the hearing and provided no reason which would warrant ignoring this requirement. Consequently, section 82 issues were not heard at the hearing. The Tenants reserves the right to raise these issues and will further investigate filing their own application.
10. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
11. All of the reasons for this order follow and no further reasons shall be issued.

It is ordered that:

1. The Tenants shall pay to the Landlord \$6,036.00. This amount includes rent arrears owing up to and including May 19, 2022 and the cost of filing the application.

2. If the Tenants do not pay the Landlord the full amount owing on or before June 4, 2022, the Tenants will start to owe interest. This will be simple interest calculated from June 5, 2022 at 2.00% annually on the balance outstanding.

May 24, 2022
Date Issued



Troy Rossignol
Vice Chair, 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.