



Order under Section 69 Residential Tenancies Act, 2006

Citation: Hatlang v Sauve, 2023 ONLTB 18818

Date: 2023-02-06

File Number: LTB-L-026301-22

In the matter of: 36 MCEWEN ST
SMITHS FALLS ON K7A2K4

Between: Za Hatlang

And

Chris Sauve



Landlord

Tenant

Za Hatlang (the 'Landlord') applied for an order to terminate the tenancy and evict Chris Sauve (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 31, 2023.

Only the Landlord attended the hearing. The Landlord was represented by Nizar Ayoub.

As of 2:20pm, 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 Landlord's evidence.

Determinations:

PRELIMINARY ISSUE: SERVICE OF THE N4

1. At the hearing on January 16, 2023, I raised a preliminary issue with respect to the service of the N4 notice of termination. Specifically, the certificate of service indicated that the N4 was mailed to the Tenant on April 21, 2022. The termination date on the N4 was May 5, 2022.
2. Subsection 59(1) of the Act requires the termination date to be 14 days after the date of service; where a notice is served via mail, it is deemed served 5 days after (see subsection 191(3) of the Act). Thus, the N4 notice of termination appeared to be short-served and possibly, defective.
3. Subsection 191(2) states:

(2) A notice or document that is not given in accordance with this section shall be deemed to have been **validly given if it is proven that its contents actually came to the attention of the person for whom it was intended within the required time period.**

4. At the hearing, the Landlord testified that the N4 was also served by email to the Tenant and a copy of the email was submitted into evidence. The email shows the N4 was served on May 3, 2022 and the Tenant responded to this email stating "Like I said I'll pay the rent owning [sic]..."
5. Based on the evidence before the Board, I am satisfied the N4 was validly given. I proceeded to hear the Landlord's L1 application on an uncontested basis.

L1 APPLICATION

6. 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.
7. As of the hearing date, the Tenant was still in possession of the rental unit.
8. The lawful rent is \$2,000.00. It is due on the 1st day of each month.
9. Based on the Monthly rent, the daily rent/compensation is \$65.75. This amount is calculated as follows: \$2,000.00 x 12, divided by 365 days.
10. The Tenant has not made any payments since the application was filed.
11. The rent arrears owing to January 31, 2023 are \$21,000.00.
12. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.
13. There is no last month's rent deposit.
14. 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 Landlord 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 Landlord 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 Landlord or to the LTB in trust:**
 - \$23,201.00 if the payment is made on or before February 17, 2023. 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 February 17, 2023 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 February 17, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$21,201.00. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$65.75 per day for the use of the unit starting February 1, 2023 until the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlord the full amount owing on or before February 17, 2023, the Tenant will start to owe interest. This will be simple interest calculated from February 18, 2023 at 5.00% annually on the balance outstanding.
8. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
9. If the unit is not vacated on or before February 17, 2023, then starting February 18, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
10. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after February 18, 2023.



February 6, 2023
Date Issued

Sonia Anwar-Ali
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 August 18, 2023 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 February 17, 2023

Rent Owing To February 28, 2023	\$23,000.00
Application Filing Fee	\$201.00
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 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 the Tenant must pay to continue the tenancy	\$23,201.00

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

Rent Owing To Hearing Date	\$21,000.00
Application Filing Fee	\$201.00
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	- \$
Less the amount of the interest on the last month's rent deposit	- \$0.00
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	\$21,201.00
Plus daily compensation owing for each day of occupation starting February 1, 2023	\$65.75 (per day)