



Order under Section 69
Residential Tenancies Act, 2006

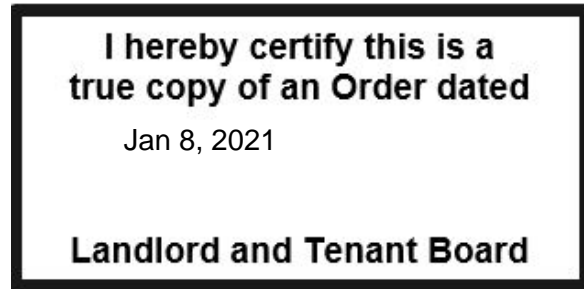
File Number: CEL-93863-20

In the matter of: BASEMENT A1, 5392 LONGHORN TRAIL
MISSISSAUGA ON L4Z3G2

Between: Sandeep Gupta

And

Anthony Junior Anderson



Landlord

Tenant

Sandeep Gupta (the 'Landlord') applied for an order to terminate the tenancy and evict Anthony Junior Anderson (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by way of a video conference on November 20, 2020. The Landlord and the Tenant attended the hearing.

Preliminary Issue:

1. The Tenant testified that he had never signed a tenancy agreement with the Landlord, and as such, he was not a properly named tenant at the rental unit.
2. In response, the Landlord testified that the Tenant had originally moved into the rental unit in 2018 as a roommate of Ms. Hamilton, the tenant of the rental unit at the time. According to the Landlord, Ms. Hamilton had rented out the basement of the rental unit to the Tenant without the Landlord's knowledge.
3. Subsequently, the tenancy between the Landlord and Ms. Hamilton was terminated on August 31, 2019 and Ms. Hamilton subsequently vacated the rental unit. According to the Landlord, the Tenant continued to reside in the rental unit and told the Landlord in August 2019 that he needed some more time to move out of the rental unit. The Tenant also paid rent to the Landlord in order to continue residing at the rental unit. The last payment received by the Landlord from the Tenant was on November 2, 2019.
4. The Tenant did not dispute the facts as stated by the Landlord, with the exception of the fact that the Tenant claimed that that he had paid rent to the Landlord after November 2019 as well.
5. A tenancy agreement can be made verbally or in writing. It is not disputed that the Tenant continues to occupy the rental unit and that he had paid rent to the Landlord up to at least November 2019 in order to establish the tenancy. As such, I find that the Tenant was

properly named as the tenant at the rental unit in the N4 Notice of Termination and that a tenancy agreement exists between the Landlord and the Tenant.

Determinations:

1. The Tenant has not paid the total rent the Tenant was required to pay for the period from October 1, 2019 to November 30, 2020. Because of the arrears, the Landlord served a Notice of Termination effective March 31, 2020.
2. The Tenant is in possession of the rental unit.
3. As of the date of the hearing, the monthly rent is \$900.00.
4. The Landlord is not holding a rent deposit.
5. The parties have had several conversations since the onset of the COVID-19 pandemic regarding a payment plan to resolve the arrears, and a draft payment plan was circulated by the Landlord to the Tenant in August 2020, but no agreement has been reached between the parties.
6. The Tenant disputed the arrears stated by the Landlord. The Tenant was unsure of the exact amount of outstanding arrears but testified that he believed the arrears to be approximately in the range of \$3,000 to \$3,500. The Tenant testified that he had stopped making any rent payments to the Landlord since October 2020 as a result of some alleged maintenance issues at the rental unit. He also testified that there were some other months during which he did not pay the rent as a result of having undergone a medical procedure.
7. Moreover, the Tenant alleged that he had forwarded his rent for August and September 2020 to the original Tenant, Ms. Hamilton, who may have failed to pay the Landlord. The Tenant testified that he had sent these payments by way of electronic transfers, but he was unable to provide the copies of the email confirmations of these transfers. The Landlord testified that he had last received any payment from the Tenant on November 2019.
8. The Tenant attempted to raise the alleged maintenance issues at the rental unit as part of his evidence to the Board. I was unable to consider these allegations as the Tenant had not provided advance notice as required by section 82(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and did not provide any reason why he had failed to do so. The Tenant also alleged that the Landlord had agreed to reduce his rent as a result of these alleged maintenance issues. The Landlord testified that no agreement had been reached between the parties regarding a reduction of rent.
9. The Tenant submitted that he could pay \$350.00 in addition to his lawful monthly rent in order to resolve the arrears. When asked if he was able to pay the arrears off at a faster rate, the Tenant testified that he would not be able to make additional payments of any greater amounts. The Tenant also stated that he had nowhere to go if evicted, as it was

difficult to find housing during the pandemic. The Landlord rejected the Tenant's proposal as it would be prejudicial to the Landlord to accept such a lengthy payment plan.

10. I find that the arrears of rent as stated by the Landlord to be accurate. The Landlord was able to provide detailed oral evidence regarding the discussions which he had with the Tenant regarding the arrears, including the discussions of a draft payment plan that ultimately could not be agreed upon. He also filed an L1/L9 update sheet with the Board which reflected the amount of outstanding arrears. The Tenant agreed that he owed arrears to the Landlord but was unaware of the exact amount of arrears. The Tenant also agreed that he had withheld rent due to allegations of maintenance issues at the rental unit. Finally, the Tenant was not able to provide any documentary evidence of his alleged payments to the Landlord.
11. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including whether the impact of the COVID-19 and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The arrears of rent are substantial and any further postponement of this eviction would be highly prejudicial to the Landlord.

It is ordered that:

1. Unless the Tenant voids the order as set out below, the tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before January 19, 2021.
2. The Tenant shall pay to the Landlord \$10,265.81*, which represents the amount of rent owing and compensation up to January 6, 2021.
3. The Tenant shall also pay to the Landlord \$23.01 per day for compensation for the use of the unit starting January 9, 2021 to the date the Tenant moves out of the unit.
4. The Tenant shall also pay to the Landlord \$175.00 for the cost of filing the application.
5. If the Tenant does not pay the Landlord the full amount owing* on or before January 19, 2021, the Tenant will start to owe interest. This will be simple interest calculated from January 20, 2021 at 2.00% annually on the balance outstanding.
6. If the unit is not vacated on or before January 19, 2021, then starting January 20, 2021, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
7. 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 January 20, 2021.
8. If, on or before January 19, 2021, the Tenant pays the amount of \$10,975.00** to the Landlord or to the Board in trust, this order for eviction will be void. This means that the tenancy would not be terminated and the Tenant could remain in the unit. If this payment

is not made in full and on time, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.

9. The Tenant may make a motion to the Board under subsection 74(11) of the Act to set aside this order if they pay the amount required under that subsection on or after January 20, 2021 but before the Sheriff gives vacant possession to the Landlord. The Tenant is only entitled to make this motion once during the period of the tenancy agreement with the Landlord.

January 8, 2021
Date Issued



Arnab Quadry
Member, Landlord and Tenant Board

Central-RO
3 Robert Speck Pkwy, 5th Floor
Mississauga ON L4Z2G5

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 July 18, 2021 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.

* Refer to section A on the attached Summary of Calculations.

** Refer to section B on the attached Summary of Calculations.

**Schedule 1
SUMMARY OF CALCULATIONS**

File Number: CEL-93863-20

A. Amount the Tenant must pay if the tenancy is terminated:

Reasons for amount owing	Period	Amount
Arrears: (up to the termination date in the Notice of Termination)	October 1, 2019 to March 31, 2020	\$3,800.00
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	April 1, 2020 to January 8, 2021	\$6,465.81
Amount owing to the Landlord on the order date: (total of previous boxes)		\$10,265.81
Additional costs the Tenant must pay to the Landlord:		\$175.00
Plus daily compensation owing for each day of occupation starting January 9, 2021:		\$23.01 (per day)
Total the Tenant must pay the Landlord if the tenancy is terminated:		\$10,440.81, + \$23.01 per day starting January 9, 2021

B. Amount the Tenant must pay to void the eviction order and continue the tenancy:

Reasons for amount owing	Period	Amount
Arrears:	October 1, 2019 to January 31, 2021	\$10,800.00
Additional costs the Tenant must pay to the Landlord:		\$175.00
Total the Tenant must pay to continue the tenancy:	On or before January 19, 2021	\$10,975.00