



Order under Section 69 Residential Tenancies Act, 2006

Citation: MacPherson Realty v McGarragle, 2024 ONLTB 18102

Date: 2024-03-12

File Number: LTB-L-002294-24

In the matter of: 410, 839 Talwood Dr
Peterborough ON K9J7M6

Between: MacPherson Realty

And

Trina McGarragle
Ryan MacDougall

I hereby certify this is a
true copy of an Order dated
MAR 12, 2024
M. Sawicki
Landlord and Tenant Board

Landlord

Tenants

MacPherson Realty (the 'Landlord') applied for an order to terminate the tenancy and evict Trina McGarragle and Ryan MacDougall (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on February 8, 2024.

The Landlord's agent, H. Gilfillen 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 \$1,230.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$40.44. This amount is calculated as follows: \$1,230.00 x 12, divided by 365 days.
5. The Tenants have not made any payments since the application was filed.
6. The rent arrears owing to February 29, 2024 are \$10,860.00.
7. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$1,200.00 from the Tenants 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 \$3.21 is owing to the Tenants for the period from January 1, 2024 to February 8, 2024.
10. Trina MacDougall (T.M.), spoke on behalf of both Tenants. The Tenants agreed to the total arrears owing. T.M. lost her job in June 2023. Both Tenants have physical and mental health issues. T.M. does not currently have a source of income but recently secured employment and is to commence next week. T.M. recently applied to OW and is waiting on a response on whether she qualifies for assistance. The Tenants allege that they tried to contact the Landlord to negotiate a payment plan but have never received a response. The Tenants testified that due to their lack of income, they have not been paying any of their bills.
11. R.M. testified that his only source of income is \$1,308.00 from ODSP but has a lot of bills to pay from such income. R.M. suffers from multiple health issues and cannot work.
12. The Tenants request a payment plan of \$500.00 per month plus their monthly rent. T.M. asserts that with her OW income, they will be able to pay the rent plus the arrears.

Relief from eviction

13. T.M.'s income is speculative. OW has not approved her application and she currently does not have a job. Although T.M. is currently scheduled to start work the following week, there were no submissions made on the secured monthly income that would be received. R.M.'s income is the only revenue that that can be considered. It was R.M.'s testimony that he requires his income for his own monthly bills and cannot offer the full amount towards rent. Based on the evidence before me, this tenancy is not viable. The Tenants do not have the revenue to sustain the monthly rent, or make payments towards arrears.
14. The Landlord requests a standard order. The Tenants have made multiple promises to pay off the arrears but have failed to do so.
15. The Tenants request 3 to 6 months to vacate the unit. There are no children or pets in the unit. The Tenants suffer from multiple health issues and at times cannot get out of bed.
16. 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 postpone the eviction until April 30, 2024 pursuant to subsection 83(1)(b) of the Act. With a postponed termination date, the Tenants will be at liberty to find additional housing without going into arrears for a longer period which would be prejudicial to both Tenants and the Landlord.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants voids this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$12,291.00 if the payment is made on or before March 31, 2024. See Schedule 1 for the calculation of the amount owing.

OR

- \$13,521.00 if the payment is made on or before April 30, 2024. See Schedule 1 for the calculation of the amount owing.
3. The Tenants may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenants have paid the full amount owing as ordered plus any additional rent that became due after April 30, 2024 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.
 4. **If the Tenants do not pay the amount required to void this order the Tenants must move out of the rental unit on or before April 30, 2024**
 5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$8,951.31. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenants. See Schedule 1 for the calculation of the amount owing.
 6. The Tenants shall also pay the Landlord compensation of \$40.44 per day for the use of the unit starting February 9, 2024 until the date the Tenants moves out of the unit.
 7. If the Tenants do not pay the Landlord the full amount owing on or before March 23, 2024, the Tenants will start to owe interest. This will be simple interest calculated from March 24, 2024 at 7.00% annually on the balance outstanding.
 8. If the unit is not vacated on or before April 30, 2024, then starting May 1, 2024, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
 9. 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 May 1, 2024.

March 12, 2024
Date Issued



Mayra Sawicki
Member, Landlord and Tenants 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 November 1, 2024 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 Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before March 31, 2024

Rent Owing To March 31, 2024	\$12,090.00
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	\$12,291.00

B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before April 30, 2024

Rent Owing To April 30, 2024	\$13,320.00
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	\$13,521.00

C. Amount the Tenants must pay if the tenancy is terminated

Rent Owing To Hearing Date	\$9,953.52
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	- \$1,200.00
Less the amount of the interest on the last month's rent deposit	- \$3.21
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	\$8,951.31
Plus daily compensation owing for each day of occupation starting February 9, 2024	\$40.44 (per day)