



Order under Section 69 Residential Tenancies Act, 2006

Citation: Stewart v Hegelheimer, 2024 ONLTB 1887

Date: 2024-01-04

File Number: LTB-L-059068-23

In the matter of: Upstairs, 1703 WHITEHALL DR
LONDON ON N5W1Y8

Between: Tyler Stewart

And

Seth Hegelheimer and Katarina Clark

I hereby certify this is a
true copy of an Order dated
JAN 04, 2024
Landlord and Tenant Board

Landlord

Tenants

Tyler Stewart (the 'Landlord') applied for an order to terminate the tenancy and evict Seth Hegelheimer and Katarina Clark (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on December 20, 2023.

The Landlord's legal representative Loryn Lux, the Landlord, and the Tenant Katarina Clark attended the hearing. The Tenant spoke to Tenant Duty Counsel prior to the hearing.

At the hearing, the parties engaged in mediation. As a result of the resolution discussion, the parties requested an Order on Consent in full and final settlement of the application.

I was satisfied the parties understood the consequences of their consent.

The parties agree that:

1. The Landlord served the Tenants with a 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.
2. The tenancy shall terminate in a final way and without voiding provisions as of February 5, 2024.
3. The lawful rent is \$1,845.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$60.66. This amount is calculated as follows: \$1,845.00 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 December 31, 2023, are \$18,276.00, which includes the \$186.00 filing fee.
7. The Landlord collected a rent deposit of \$1,800.00 from the Tenants and this deposit is still being held by the Landlord.
8. The rent deposit was collected on June 12, 2021, and no interest has been paid. Interest on the rent deposit, in the amount of \$90.27 is owing to the Tenants.
9. The last month's rent in the amount of \$1,800.00 shall be applied to the last month of tenancy which will be from January 1, 2024, to January 31, 2024. The difference in the last month's rent deposit (\$1,800.00) and the current rent (\$1,845.00) is \$45.00 which is owed to the Landlord.
10. The interest owed to the Tenants from the Landlord (\$90.27), and the difference in the last month's rent amounts owing from the Tenant to the Landlord (\$45.00) shall be adjusted in the total amount of arrears owing. Therefore, the total amount of arrears owing from the Tenants to the Landlord is \$18,230.73.
11. The Tenants shall pay to the Landlord rent owing from February 1, 2024, up to and including February 5, 2024, in the amount of \$303.30 (daily rent calculation of \$60.66x5 days), on or before February 1, 2024.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated. The Tenants must move out of the rental unit on or before February 5, 2024.
2. The Tenants shall pay to the Landlord \$18,230.73. This amount includes rent arrears owing up to December 31, 2023, the filing fee, interest on the last month's rent deposit, and the difference in the last month's rent deposit amount and the current rent amount due.
3. The Tenants shall pay to the Landlord rent owing from February 1, 2024, up to and including February 5, 2024, in the amount of \$303.30 (daily rent calculation of \$60.66x5 days), on or before February 1, 2024.
4. If the unit is not vacated on or before February 5, 2024, the Tenants shall also pay the Landlord compensation of \$60.66 per day for the use of the unit starting February 6, 2024, until the date the Tenants move out of the unit.
5. If the Tenants do not pay the Landlord the full amount owing as per paragraph 2 of this order, and if applicable, paragraph 3 of this order, on or before February 5, 2024, the Tenants will start to owe interest. This will be simple interest calculated from February 6, 2024, at 7.00% annually on the balance outstanding.
6. If the unit is not vacated on or before February 5, 2024, then starting February 6, 2024, 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 February 6, 2024.

January 4, 2024
Date Issued

Paula West Oreskovich
Hearings Officer, 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 6, 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.