

Patel v Kamalifar, 2021 CanLII 147259 (ON LTB)

Date: 2021-11-22
File number: HOL-11608-21
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Tribunals Ontario
Landlord and Tenant Board

Order under Section 69
Residential Tenancies Act, 2006

File Number: HOL-11608-21

In the matter of: 1205, 2152 LAWRENCE AVENUE E TORONTO ON M1R0B5

Between: Ileshkumar Patel Rachana Patel Landlords

and
Aisan Kamalifar Tenants
Davan Dwayne Dawkins

Ileshkumar Patel and Rachana Patel (the 'Landlords') applied for an order to terminate the tenancy and evict Aisan Kamalifar and Davan Dwayne Dawkins (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on November 9, 2021. Only one of the Landlords Ileshkumar Patel, and their Legal Representative Rajdeep Sangha, attended the hearing. As of 11:08 a.m., the Tenants were not present or represented at the hearing although properly served with notice of this hearing by the Board.

Determinations:

1. The Tenants have not paid the total rent the Tenants were required to pay for the period from March 1, 2021 to November 30, 2021. Because of the arrears, the Landlords served a Notice of Termination effective August 7, 2021.

2. The Tenants are in possession of the rental unit.
3. The lawful monthly rent is \$1,900.00.
4. The Tenants have made no payments since the application was filed.
5. The Landlords collected a rent deposit of \$1,900.00 from the Tenants and this deposit is still being held by the Landlords.
6. Interest on the rent deposit is owing to the Tenants for the period from November 27, 2019 to August 7, 2021.

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7. I have considered all of the disclosed circumstances in accordance with subsection 83 of the *Residential Tenancies Act, 2006* (RTA), 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. Unless the Tenant voids the order as set out below, the tenancy between the Landlords and the Tenants is terminated. The Tenants must move out of the rental unit on or before December 3, 2021.
2. The Tenants shall pay to the Landlords \$14,678.32*, which represents the amount of rent owing and compensation up to November 22, 2021, less the rent deposit and interest the Landlords owe on the rent deposit.
3. The Tenants shall also pay to the Landlords \$62.47 per day for compensation for the use of the unit starting November 23, 2021 to the date the Tenants move out of the unit.
4. The Tenants shall also pay to the Landlords \$186.00 for the cost of filing the application.
5. If the Tenants do not pay the Landlords the full amount owing* on or before December 3, 2021, the Tenants will start to owe interest. This will be simple interest calculated from December 4, 2021 at 2.00% annually on the balance outstanding.
6. If the unit is not vacated on or before December 3, 2021, then starting December 4, 2021, the Landlords 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 Landlords, on or after December 4, 2021.
8. If the Tenants wish to void this order and continue the tenancy, the Tenants must pay to the Landlords or to the Board in trust:
 - i) \$17,286.00 if the payment is made on or before November 30, 2021, or
 - ii) \$19,186.00 if the payment is made on or before December 3, 2021**.If the Tenants do not make full payment in accordance with this paragraph and by the appropriate deadline, then the Landlords may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.

9. The Tenants 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 December 4, 2021 but before the Sheriff gives vacant possession to the Landlords. The Tenants are only entitled to make this motion once during the period of the tenancy agreement with the Landlords.

Ian Speers



November 22, 2021 Date Issued

Vice Chair, Landlord and Tenant Board

Head Office
777 Bay Street, 12th Floor Toronto Ontario M5G2E5

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 June 4, 2022 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

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

Reasons for amount owing	Period	Amount
Arrears: (up to the termination date in the Notice of Termination)	March 1, 2021 to August 7, 2021	\$9,937.26
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	August 8, 2021 to November 22, 2021	\$6,684.29
Less the rent deposit:		-\$1,900.00
Less the interest owing on the rent deposit:	November 27, 2019 to August 7, 2021	-\$43.23
Amount owing to the Landlords on the order date:(total of previous boxes)		\$14,678.32

Additional costs the Tenants must pay to the Landlords: \$186.00

Plus daily compensation owing for each day of occupation starting November 23, 2021:	\$62.47 (per day)
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Total the Tenants must pay the Landlords if the tenancy is terminated:	\$14,864.32, + \$62.47 per day starting November 23, 2021
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B. Amount the Tenants must pay to void the eviction order and continue the tenancy:

1. If the payment is made on or before November 30, 2021:

Reasons for amount owing	Period	Amount
Arrears:	March 1, 2021 to November 30, 2021	\$17,100.00
Additional costs the Tenants must pay to the Landlords:		\$186.00

Total the Tenants must pay to continue the tenancy:	On or before November 30, 2021	\$17,286.00
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2. If the payment is made after November 30, 2021 but on or before December 3, 2021:

Reasons for amount owing	Period	Amount
Arrears:	March 1, 2021 to December 31, 2021	\$19,000.00
Additional costs the Tenants must pay to the Landlords:		\$186.00
Total the Tenants must pay to continue the tenancy:	On or before December 3, 2021	\$19,186.00