



Order under Section 69
Residential Tenancies Act, 2006

File Number: TEL-09658-20

In the matter of: 29 GROVE HILL DRIVE
TORONTO ON M1T3E1

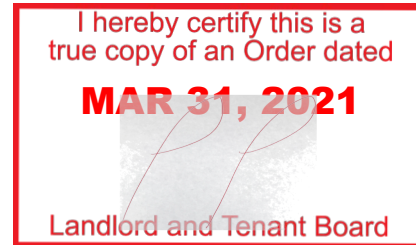
Between: Ying Yan Chen

Landlord

and

Chantil R. Beardsworth
Shannon Anthony Hynes

Tenants



Ying Yan Chen (the 'Landlord') applied for an order to terminate the tenancy and evict Shannon Anthony Hynes and Chantil R. Beardsworth (the 'Tenants') because they have been persistently late in paying their rent. The Landlord also claimed compensation for each day the Tenants remained in the unit after the termination date.

This application was heard by way of video conference on March 23, 2021. The Landlord, the Landlord's Legal Representative, Yun Tao Li, the Tenants and the Tenants' Legal Representative attended the hearing.

Determinations:

1. The Tenants have persistently failed to pay the rent on the date it was due. The rent is due on the 1st day of each month.
2. The Tenants are in possession of the rental unit.
3. The monthly rent is \$2,240.00.
4. The Landlord collected a rent deposit of \$2,200.00 from the Tenants and this deposit is still being held by the Landlord.
5. Interest on the rent deposit is owing to the Tenants for the period from February 27, 2020 to March 31, 2020

Landlord's Evidence

6. The Landlord's Representative submitted that the Tenants have persistently paid rent late since 2018. Since the N8 Notice of Termination was served to the Tenants, there has been some improvement with rent being paid on time, however, the Tenants paid the

monthly rent late 4 additional times since the application was filed. Each of the late payments were paid between the 2nd and 3rd day of each month.

7. The Landlord testified that her mortgage is due on the 8th of each month and that the Tenants paying rent late makes her anxious. She worries about having the money in the bank to pay the mortgage.
8. The Landlord's Representative submitted that the Landlord wants the tenancy terminated, and if not so ordered by the Board, the Landlord would like a conditional pay on time order that is subject to s.78.

Tenants Evidence

9. The Tenant, Chantil Breadsworth ('CB') testified that sometimes they do pay rent late. CB testified that each time she paid the rent late, she apologized to the Landlord.
10. CB testified that she agrees with all the dates the Landlord says she paid late, except for the month of November 2019. CB testified that she in fact paid November 2019 on time, and that the Landlord confused the rent payment with the utility payment which is due later in the month.
11. CB testified that she wants to preserve the tenancy. She lives with her husband, daughter, grandchild, son and son-in-law. The rental unit is their home.
12. CB testified the reasons she paid the rent late was as a result of her simply forgetting the date or having to wait on her husband's pay cheque to clear at the bank. CB denied intentionally paying the rent late.

Relief from eviction

13. 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 grant relief from eviction subject to the condition(s) set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act. In making this finding, I considered the fact the Tenants' persistent late payment history has improved since the application was filed. I also considered the fact that the Tenants late payments have not yet prejudiced the Landlord financially, meaning the Landlord has not defaulted on her mortgage or bills as a result of the late rent payments. As such, I find it reasonable and just to grant relief from eviction by way of a conditional pay on time order that is subject to s.78 of the Act. This order preserves the tenancy and allows the Landlord to collect the rent when it is due on the 1st day of each month. It also allows the Landlord to apply for an ex-parte order for eviction should the Tenants breach the terms of the conditional order.

It is ordered that:

1. The Tenants shall pay the Landlord the monthly rent due on or before the 1st day of the month for the period of May 2021 to April 2022.

2. The Tenants shall also pay to the Landlord \$175.00 for the cost of filing the application.
3. If the Tenants do not pay the Landlord the full amount of \$175.00 on or before April 11, 2021, the Tenant will start to owe interest. This will be simple interest calculated from April 12, 2021 at 2.00% annually on the balance outstanding.
4. If the Tenants fails to make any of the payments indicated in paragraph 1 above, the Landlord may apply to the Board, no later than 30 days after a breach of this order, without notice to the Tenant, for an order terminating the tenancy and evicting the Tenant pursuant to s. 78 of the Act.



Dawn Wickett
Member, Landlord and Tenant Board

March 31, 2021
Date Issued

Toronto East-RO
2275 Midland Avenue, Unit 2
Toronto ON M1P3E7

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.