



Jun 26, 2023

Landlord and Tenant Board

**Order under Section 69
Residential Tenancies Act, 2006**

Citation: Keith Bagg v Noah Lutka-Macdougall, 2023 ONLTB 47112

Date: 2023-06-26

File Number: LTB-L-016982-23

In the matter of: UPPER, 48 OTTAWAY AVE
BARRIE ON L4M2W9

Between: Keith Bagg and Rachel Bagg

Landlords

And

Kevin Lutka and Noah Lutka-Macdougall

Tenants

Keith Bagg and Rachel Bagg (the 'Landlords') applied for an order to terminate the tenancy and evict Kevin Lutka and Noah Lutka-Macdougall (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on June 21, 2023.

The Landlords' legal representative, Cassandra Weatherston, and the Tenant, Kevin Lutka, attended the hearing. Kevin Lutka attended the hearing on behalf of both Tenants. He will be referred to as the Tenant singular in this order.

Determinations:

1. The Landlords 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 \$2,400.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$78.90. This amount is calculated as follows: \$2,400.00 x 12, divided by 365 days.
5. The Tenants paid \$2,889.53 since the application was filed.
6. The rent arrears owing to June 30, 2023 are \$11,722.15.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The total amount the Tenants owe the Landlords up to June 30, 2023 is \$11,908.15.

9. The Landlords collected a rent deposit of \$2,400.00 from the Tenants and this deposit is still being held by the Landlords. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
10. The Landlords requested a standard eviction order for non-payment of rent. The tenancy is of a short duration and the arrears are significant.
11. The Tenant requested relief from eviction by way of a payment plan. According to the Tenant, he fell into financial difficulties because the Family Responsibility Office continued to deduct money from his income after his child became an adult. He is to receive approximately \$20,000.00 in overpayments. He is also applying for Ontario Disability Support Plan Benefits, which, if granted, would amount to \$1,750.00 per month.
12. The Tenant has recently secured a job which can accommodate his health issues. According to the Tenant, the job pays \$3,000.00 to \$4,000.00 per month.
13. The Tenant's son contributes \$800.00 to the monthly rent.
14. The Tenant proposed to pay the Landlords \$500.00 towards the arrears on every other Tuesday starting June 27, 2023 until December 26, 2023 (\$6,000.00 in total). The Tenant further stated that this was the minimum amount he would pay the Landlords, and he would pay more if he was in a position to do so. The Tenant further proposed to pay the outstanding balance of \$5,908.15 by December 31, 2023, and to pay the monthly rent on time and in full as it came due on the first day of each and every month.
15. The Tenant resides with an adult son and a daughter who attends the gifted program in the local school.
16. I have considered all of the disclosed circumstances, including the potential prejudice to the Tenant and the Landlord 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 to give the Tenants a chance to save the tenancy, subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.

It is ordered that:

1. The Tenants shall pay the Landlord **\$11,908.15** which represents the total rent the Tenants were required to pay to June 30, 2023 including the Landlord's application filing fee.
2. The Tenants shall pay the amount set out in paragraph 1 above by paying the Landlord **\$500.00 on every second Tuesday** of the month, starting June 27, 2023 of the month until December 26, 2023, or until the arrears are paid in full, whichever comes first.

The payment schedule is as follows:

On or before June 27, 2023	\$500.00
On or before July 11, 2023	\$500.00
On or before July 25, 2023	\$500.00

On or before August 8, 2023	\$500.00
On or before August 22, 2023	\$500.00
On or before September 5, 2023	\$500.00
On or before September 19, 2023	\$500.00
On or before October 3, 2023	\$500.00
On or before October 17, 2023	\$500.00
On or before October 31, 2023	\$500.00
On or before November 14, 2023	\$500.00
On or before November 28, 2023	\$500.00
On or before December 12, 2023	\$500.00
On or before December 26, 2023	\$500.00

3. The Tenants shall also pay the Landlord the outstanding balance of **\$5,908.15** by **December 31, 2023**.
4. The Tenants shall **also pay their monthly rent** as it comes due on or before the 1st day of each and every month starting July 1, 2023 until December 1, 2023 or until the arrears are paid in full, whichever comes first.
5. If the Tenants fail to make any one of the payments in paragraph 2, 3, or 4 of this order, in full and on time, the Landlord may apply under section 78 of the Act, without notice to the Tenants for an order terminating the tenancy and evicting the Tenants. The Landlord must make this application no later than 30 days after the Tenants' failure to make a payment. As part of the application, the Landlord can also request an order for rent that became owing after the date of this order and NSF cheque fees and related administration charges.



Jana Rozehnal
Member, Landlord and Tenant Board

June 26, 2023
Date Issued

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.