



Order under Section 69 Residential Tenancies Act, 2006

Citation: Ajayi v Turcios, 2024 ONLTB 6107

Date: 2024-01-23

File Number: LTB-L-073484-23

In the matter of: 75 ALGEO WAY
BRADFORD ON L3Z0W4

Between: Oluwatosin Ajayi and Oluwatobi Dipo-ajayi Landlords

And

Juan Jose Turcios, Chelsea Beattie Tenants

I hereby certify this is a true copy of an Order dated
January 23, 2024

Landlord and Tenant Board

Oluwatosin Ajayi and Oluwatobi Dipo-ajayi (the 'Landlords') applied for an order to terminate the tenancy and evict Juan Jose Turcios and Chelsea Beattie (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on January 9, 2024.

The Landlord's, the Landlord's Legal Representative, Babak Karimkhani and the Tenants, Chelsea Beattie, on behalf of both Tenants, attended the hearing.

Determinations:

1. The application was amended to remove Crystal Cole as a Tenant, as Chelsea Beattie stated that Ms. Cole is a co-signer and never resided in the rental unit. The Landlords offered no submissions to rebut this statement.
2. 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.
3. As of the hearing date, the Tenants were still in possession of the rental unit.
4. The lawful rent is \$2,800.00. It is due on the 1st day of each month.
5. Based on the Monthly rent, the daily rent/compensation is \$92.05. This amount is calculated as follows: \$2,800.00 x 12, divided by 365 days.
6. The Tenants have paid \$1,650.00 to the Landlords since the application was filed.
7. The rent arrears owing to January 31, 2024 are \$12,350.00.
8. The Landlords incurred costs of \$186.00 for filing the application and are entitled to reimbursement of those costs.

9. The Landlords collected a rent deposit of \$2,800.00 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. Interest on the rent deposit, in the amount of \$105.33 is owing to the Tenants for the period from January 1, 2022 to January 9, 2024.

Relief from Eviction

11. The Landlord is seeking a standard termination order. The Landlord's Legal Representative stated that the Tenants owe a significant amount of arrears and that no payment has been made in the last four months.
12. The Landlord testified that the Tenant's failure to pay rent has caused financial hardship for the Landlords that has interfered with the ability to sustain the property and forced a Power of Sale of the property.
13. The Landlord also testified that due to the Tenant's failure to pay rent, that she had to return to work early from maternity leave and that she had to remove her children from their extracurricular activities.
14. The Landlord further testified that her husband is on a disability due to having a stroke, and as such, their monthly income is limited and that it is a struggle to sustain two mortgages without the rental income.
15. The Tenant wanted to preserve the tenancy and requested a repayment plan of \$1,625.00 per month to be paid on the 20th of each month. Alternatively, she requested three months to seek alternative accommodations should an order be issued to terminate the tenancy.
16. The Tenant testified that she was unable to pay the rent as her husband was unable to work due to being extremely ill from August 2023-October 2023; however, he is now back to work.
17. The Tenant also testified that they did not make any payments towards the arrears or rent since her husband returned to work as they were catching up on bills and expenses that had accrued during the period that he was ill.
18. The Tenant indicated that the total monthly household income is approximately \$8,300.00, which include income from both Tenants and Child Tax Benefit. The Tenant testified the total monthly household expenses are approximately \$3,677.00, which includes utilities, insurances, groceries, fuel, and child support. This would leave approximately \$4,623.00 left over for any other expenses or leisure not indicated.
19. The Tenants have three children and a family member who has suffered from a brain injury also residing in the unit.
20. We find that it would be unfair to impose a repayment plan as there would be substantial prejudice to the Landlords as the arrears are significant and the Landlord is facing a Power of Sale of the property, and is also not able to sustain the property.
21. Based on the Tenants financial submissions, it would be reasonable that some form of payment could have been made towards the rent or at minimum current rent could have been maintained; following the Tenants' return to work. No payments or efforts were

made by the Tenants to repay the arrears or to pay current rent, prior to the hearing. Although, the Tenants want an opportunity to rectify the issue, it is our position that this could have been done prior to the hearing, should accommodations have been a priority. The Tenant also provided no reasonable explanation as to why she prioritized other expenses over the monthly rent since November 2023, when the household income was back to normal.

22. We are however mindful to the fact that the Tenants have experienced some unforeseen hardship throughout the last several months and as such, find that it would not be unfair to delay termination to allow the Tenants some additional time to secure alternate housing or to pay the arrears in full.
23. We 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 February 29, 2024 pursuant to subsection 83(1)(b) of the Act.

It is ordered that:

1. The tenancy between the Landlords and the Tenants is terminated unless the Tenants void this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlords or to the LTB in trust:**
 - \$12,536.00 if the payment is made on or before January 31, 2024. See Schedule 1 for the calculation of the amount owing.

OR

 - \$15,336.00 if the payment is made on or before February 29, 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 February 29, 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 February 29, 2024**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlords \$7,659.12. 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 Landlords owe 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 Landlords compensation of \$92.05 per day for the use of the unit starting January 10, 2024 until the date the Tenants move out of the unit.

7. If the Tenants do not pay the Landlords the full amount owing on or before February 3, 2024, the Tenants will start to owe interest. This will be simple interest calculated from February 4, 2024 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before February 29, 2024, then starting March 1, 2024, the Landlords 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 Landlords on or after March 1, 2024.

January 23, 2024
Date Issued



Christina Philp
Member, Landlord and Tenant Board

January 23, 2024
Date Issued



Fabio Quattrociochi
Member, 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 September 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 January 31, 2024

Rent Owing To January 31, 2024	\$14,000.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlords since the application was filed	- \$1,650.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlords owes the Tenants for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$12,536.00

B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before February 29, 2024

Rent Owing To February 29, 2024	\$16,800.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlords since the application was filed	- \$1,650.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlords owes the Tenants for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$15,336.00

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

Rent Owing To Hearing Date	\$12,028.45
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlords since the application was filed	- \$1,650.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$2,800.00
Less the amount of the interest on the last month's rent deposit	- \$105.33
Less the amount the Landlords owes the Tenants for an {abatement/rebate}	- \$0.00

Less the amount of the credit that the Tenants is entitled to	- \$0.00
Total amount owing to the Landlords	\$7,659.12
Plus daily compensation owing for each day of occupation starting January 10, 2024	\$92.05 (per day)