



MAY 2, 2024

Landlord and Tenant Board

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

Citation: Johnson v Franze, 2024 ONLTB 31090

Date: 2024-05-02

File Number: LTB-L-072168-23

In the matter of: 28, 1725 ERNEST AVE
LONDON ON N6E2W3

Between: Travis Oneil Johnson Landlord

And

Nikki Franze Tenant

Travis Oneil Johnson (the 'Landlord') applied for an order to terminate the tenancy and evict Nikki Franze (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on March 4, 2024.

The Landlord, Landlord's legal representative Chak Chuen Ho and the Tenant attended the hearing.

Preliminary Issues:

1. At the hearing the Tenant asked combine the hearing for this applications with a T1 Application (LTB-T-049626-23) previously filed by the Tenant. The Tenant did not make this request prior to the hearing.
2. The Tenant has not raised any issues under section 82 of *Residential Tenancies Act, 2006* (the 'Act') this application.
3. The Tenant also indicated that they have a lawyer retained for the T1 Application but the lawyer is not retained for this L1 Application.
4. The Landlord's representative submitted that he has no knowledge of the T1 Application or any issues that Tenant has with the rental unit. He sent the Tenant information for the hearing, including the L1/L9 update form, on February 27, 2024 yet did not get a reply from the Tenant until the hearing date.
5. After reviewing the T1 Application, it appeared the Tenant is not seeking any monetary award. As a result, there would be no set-off from any award made on this L1 Application.
6. I was not satisfied that the Tenant took reasonable or timely steps to have their T1 Application heard nor did I find an adjournment appropriate given the amount of arrears. The Tenant confirmed they had knowledge of the hearing date on February 27, 2024 yet did not take any steps to retain their lawyer for the L1 hearing or seek an adjournment.

7. As a result, the Tenant's request to adjourn and/or combine applications was denied and the hearing continued.

Determinations:

8. The Landlord served the Tenant with a valid 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.
9. As of the hearing date, the Tenant was still in possession of the rental unit.
10. The lawful rent is \$2,600.00. It is due on the 1st day of each month.
11. Based on the Monthly rent, the daily rent/compensation is \$85.48. This amount is calculated as follows: \$2,600.00 x 12, divided by 365 days.
12. The Tenant has not made any payments since the application was filed.
13. The rent arrears owing to March 31, 2024 are \$24,300.00.
14. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
15. The Landlord collected a rent deposit of \$2,600.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
16. Interest on the rent deposit, in the amount of \$109.16 is owing to the Tenant for the period from July 1, 2022 to March 4, 2024.
17. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), 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.
18. The Tenant indicated that they are willing to try to catch up on their rent and pay on time moving forward. The Tenant proposed paying \$5,000.00 per month on top of the rent on time for the months of April, May, June, July, and August 2024. The Tenant is currently unemployed and has six children. Despite the good faith offer being made by the Tenant at the hearing, it was not clear how the Tenant would be able to catch up their arrears. The Tenant could not indicate where the funds would come from.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
2. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**

- \$29,686.00 if the payment is made on or before May 13, 2024. See Schedule 1 for the calculation of the amount owing.
3. The Tenant may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenant has paid the full amount owing as ordered plus any additional rent that became due after May 13, 2024 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
 4. **If the Tenant does not pay the amount required to void this order the Tenant must move out of the rental unit on or before May 13, 2024.**
 5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$19,518.76. 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 Landlord owes on the rent deposit are deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.
 6. The Tenant shall also pay the Landlord compensation of \$85.48 per day for the use of the unit starting March 5, 2024 until the date the Tenant moves out of the unit.
 7. If the Tenant does not pay the Landlord the full amount owing on or before May 13, 2024, the Tenant will start to owe interest. This will be simple interest calculated from May 14, 2024 at 7.00% annually on the balance outstanding.
 8. If the unit is not vacated on or before May 13, 2024, then starting May 14, 2024, the Landlord 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 Landlord on or after May 14, 2024.

May 2, 2024
Date Issued



Brett Lockwood
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 November 14, 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 Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before May 13, 2024

Rent Owing To May 31, 2024	\$29,500.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total the Tenant must pay to continue the tenancy	\$29,686.00

B. Amount the Tenant must pay if the tenancy is terminated

Rent Owing To Hearing Date	\$22,041.92
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$2,600.00
Less the amount of the interest on the last month's rent deposit	- \$109.16
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlord	\$19,518.76
Plus daily compensation owing for each day of occupation starting March 5, 2024	\$85.48 (per day)