



Order under Section 69 Residential Tenancies Act, 2006

Citation: Talati v Zeng, 2023 ONLTB 19659

Date: 2023-02-06

File Number: LTB-L-029191-22

In the matter of: 61 LUCE DR
AJAX ON L1Z0K3

Between: Hansamati Talati, Ravi Talati and Landlords
Rohitkumar Talati

And

Lingxu Zeng and Ruolin Tian Tenants

Hansamati Talati, Ravi Talati and Rohitkumar Talati (the 'Landlord') applied for an order to terminate the tenancy and evict Lingxu Zeng and Ruolin Tian (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 18, 2023.

Ravi Talati, for the Landlords, the Landlord's Legal Representative, Maria Sturino, and Ruolin (Caroline) Tian for the Tenants attended the hearing.

Determinations:

Preliminary Issue

1. The Tenant, Ruolin (Caroline) Tian (RT) , requested an adjournment because Lingxu Zeng (LZ) is not in the city and her English is not good enough to proceed. When asked why she did not have someone else attend with her to assist, the Tenant testified that she had no friends.
2. Due to the quantum of arrears, the matter was set down for the Landlord's Legal Representative and the Tenant to try and reach the other Tenant, LZ, to participate by phone. At 3:10 p.m., the matter resumed; neither party was able to reach LZ. The Landlord, Ravi Talati, testified about having verbal communication with the Tenant RT on two occasions without any language difficulties; the Landlord gave details about these two occasions. The Tenant RT testified that she only recalls one conversation, and that on the other occasion it was not her. The Tenant RT confirmed that there were only two adults living in the unit.
3. For the reasons that follow, the adjournment was denied. There was no logical explanation why the Tenant was able to hold at least one conversation with the Landlord, but not able to proceed with the hearing, nor was there any apparent attempt by either Tenant to ensure someone was available to assist at the hearing since LZ was unable to attend,

further, no payments have been made since the application was filed, therefore the Landlord would be severely prejudiced by an adjournment. The hearing proceeded speaking very slowly so the Tenant could follow along.

Merits

4. The Landlord served the Tenants 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.
5. As of the hearing date, the Tenants were still in possession of the rental unit.
6. The lawful rent is \$2,750.00. It is due on the 1st day of each month.
7. Based on the Monthly rent, the daily rent/compensation is \$90.41. This amount is calculated as follows: \$2,750.00 x 12, divided by 365 days.
8. The Tenants have not made any payments since the application was filed.
9. The rent arrears owing to January 31, 2023 are \$27,500.00.
10. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
11. The Landlord collected a rent deposit of \$2,750.00 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.
12. Interest on the rent deposit, in the amount of \$67.62 is owing to the Tenant for the period from January 25, 2022 to January 18, 2023.
13. 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 Tenants and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The Tenants have not made any payments since the application was filed and now owe almost 4-times the amount when the application was filed.
14. It should be noted that at the end of the hearing, the Tenant advised they would be vacating by the standard order date.

It is ordered that:

1. The tenancy between the Landlord 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 Landlord or to the LTB in trust:**
 - \$30,436.00 if the payment is made on or before February 17, 2023. 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 Tenant has paid the full amount owing as ordered plus any additional rent that became due after February 17, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant 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 17, 2023**
5. If the Tenants do not void the order, the Tenant shall pay to the Landlord \$23,745.76. 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 Tenants shall also pay the Landlord compensation of \$90.41 per day for the use of the unit starting January 19, 2023 until the date the Tenant moves out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before February 17, 2023, the Tenant will start to owe interest. This will be simple interest calculated from February 18, 2023 at 5.00% annually on the balance outstanding.
8. The Landlord or the Tenants shall pay to the other any sum of money that is owed as a result of this order.
9. If the unit is not vacated on or before February 17, 2023, then starting February 18, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
10. 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 February 18, 2023.

February 6, 2023

Date Issued

Diane Wade

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 August 18, 2023 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 February 17, 2023

Rent Owing To February 28, 2023	\$30,250.00
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	\$30,436.00

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

Rent Owing To Hearing Date	\$26,377.38
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	- \$2,750.00
Less the amount of the interest on the last month's rent deposit	- \$67.62
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	\$23,745.76
Plus daily compensation owing for each day of occupation starting January 19, 2023	\$90.41 (per day)

