



Oct 05, 2023

James W. Campbell

Landlord and Tenant Board

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

Citation: Trivedi v Forsythe, 2023 ONLTB 66220

Date: 2023-10-05

File Number: LTB-L-037491-23

In the matter of: 28 STAUFFER RD
BRANTFORD ON N3V0B2

Between: Bhaveshkumar Trivedi Landlord

And

Meranda Forsythe, Duane Gardner, Jayne
Dunn and Tamaia Forsythe Tenant

Bhaveshkumar Trivedi (the 'Landlord') applied for an order to terminate the tenancy and evict Meranda Forsythe, Duane Gardner, Jayne Dunn and Tamaia Forsythe (collectively the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on September 26, 2023.

The Landlord, his Representative Jordan Nieuwhof, and the Tenant attended the hearing, that is, Meranda Forsythe was authorised to speak for the other two tenants who did not appear.

Determinations:

1. 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.
2. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$3,200.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$105.21. This amount is calculated as follows: \$3,200.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to September 30, 2023 are \$23,400.00.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$3,200.00 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.

9. Interest on the rent deposit, in the amount of \$67.07 is owing to the Tenant for the period from November 25, 2022 to September 26, 2023.
10. The Tenant, agreed to the amount of arrears owing. The sole issue was relief under s. 83(2) of the *Residential Tenancies Act, 2006* (the 'Act').
11. 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.
12. The arrears in this claim are substantial, at \$23,400.
13. The Tenant stated she is going through a hard time. Her partner left her, and he was the main provider. She is on disability (Meranda Forsythe). She was in an accident. She is on medication for her back. She was left partially paralyzed. She is stressed out and is seeking psychiatric help. She said if evicted, she needs time to find a place. She needs two months. She has requested housing from her disability income source, to be put on housing. She is on the waiting list. She claims she has two little ones in school. She is on medication. She does not want to go to a shelter.
14. Her two daughters live with her in the unit, the other two tenants. Tamaia, was hurt and is not working. Jayne, the third tenant, is working. Jayne earns \$1000/month. Meranda earns 1,600/month. The total household income is \$2,600.
15. Meranda was asked why she does not pay the Landlord.
16. She claims she offered \$1,000/month, but the Landlord refused. The household expenses are about \$1,000/month leaving \$1,600 in excess disposable income. In fact, the Landlord offered the Tenant a payment plan in April, but the Tenant did not respond. In fact, the Landlord reached out with a payment plan some 4 times, when the arrears were much less, but the Tenant did not respond, until the offer was withdrawn.
17. The Landlord does not agree to extend the termination date, or to a payment plan.
18. A previous action, with the hearing on 30 August 2023, was aborted as the N4 was defective. The Tenant was advised that even if the Landlord would not longer offer a payment plan, the Tenant should make payments of arrears, in good faith, as they were still owing regardless.
19. Yet the Tenant paid nothing at all.
20. At that stage, the Tenant said she would pay \$1,000/month, yet she has failed to do so.
21. Now the Tenant is again requesting a payment plan of \$1,000 with an extension to November 30, 2023.
22. The Landlord testified that it is unfair for him to carry the property without financial consideration.
23. The Landlord has used a line of credit and borrowed money from relatives to pay the mortgage.

24. The Landlord has borrowed \$17,000. He has also fallen back on his credit card, with interest at 21%.
25. He is a small Landlord. This is his first property.
26. In my view, the Landlord gave the Tenant 4 opportunities to come to the table for a payment plan.
27. The Tenant did not reply.
28. When the Landlord withdrew that offer, she then wanted a \$1,000 payment plan with extended termination date to November 30, 2023.
29. The Tenant has been able to pay at least \$1,000/month, yet she has paid nothing at all. She has some income as does her daughter.
30. I am sympathetic to the Landlord.
31. Had the Tenant responded to the four offers for relief, that would be different. But the Tenant stood by and let the arrears rack up to some \$23,400.
32. I see no reason why the Landlord should have to bear this situation any longer.
33. The Tenant filed no evidence at all about her medication condition, or any other matter. She has had more than enough time to do so, with the help of her two daughters.
34. As a result, I will order eviction with a standard order.

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:**
 - \$26,786.00 if the payment is made on or before October 16, 2023. 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 October 16, 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 Tenant does not pay the amount required to void this order the Tenant must move out of the rental unit on or before October 16, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$19,854.39. 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 \$105.21 per day for the use of the unit starting September 27, 2023 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 October 16, 2023, the Tenant will start to owe interest. This will be simple interest calculated from October 17, 2023 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before October 16, 2023, then starting October 17, 2023, 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 October 17, 2023.

October 5, 2023

Date Issued

James W. Campbell

James Campbell

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 April 17, 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.