



Order under Section 69 Residential Tenancies Act, 2006

Citation: Banwait v Singh, 2023 ONLTB 31483

Date: 2023-04-17

File Number: LTB-L-024911-22

In the matter of: 28 BISON RUN RD
BRAMPTON ON L6R1R9

Between: Mohinder Singh Banwait, Rajvinder Kaur Landlords
Banwait and Sarbdeep Singh Banwait

And

Gloria Mahabir Singh and Tyrone Amar Tenants
Singh

Mohinder Singh Banwait, Rajvinder Kaur Banwait and Sarbdeep Singh Banwait (the 'Landlords') applied for an order to terminate the tenancy and evict Gloria Mahabir Singh and Tyrone Amar Singh (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe (L1): and because the Tenants, another occupant of the rental unit or someone the Tenants permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlords or another tenant (L2).

This application was heard by videoconference on April 4, 2023. The Landlord Sardeep Singh Banwait represented by Samila Waslat, and the Tenant Tyrone Amar Singh, attended the hearing.

Determinations:

1. The Tenant argued that the N4 and N5 notices were not served on him by the Landlord. The certificate of service shows that the notices were served to a person at the rental unit by Richard Bowers. Mr. Bowers is a paralegal at the same firm as the Landlords' representative. The matter was stood down to allow Mr. Bowers to attend the hearing and give testimony about the service of the notices.
2. Mr. Bowers testified that he personally served the notices to an adult at the rental. As the service was one year ago, Mr. Bowers could not remember specifically who received the notices, but Mr. Bowers personally serves documents for LTB matters as well as Small Claims Court, and remembers attending the unit to serve the notices.. I find Mr. Bowers credible and find on a balance of probabilities, that the notices were properly served.

3. The Landlords served the Tenant with a valid Notice to End Tenancy Early for Nonpayment 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.
4. As of the hearing date, the Tenants were still in possession of the rental unit.
5. The lawful rent is \$3,000.00. It is due on the 15th day of each month.
6. The Tenants have not made any payments since the application was filed. The Tenants paid the first month rent when they moved into the unit in December 2021 and have made no payments since that time.
7. The Tenants have not paid utility bills totalling \$1,744.86.
8. The rent arrears and outstanding utility costs less the last month rent deposit exceed the Board's monetary jurisdiction of \$35,000.00.
9. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
10. The Landlord collected a rent deposit of \$3,000.00 from the Tenant and this deposit is still being held by the Landlord.
11. The Tenant testified that a property has been sold for \$30,000.00 which he will receive. There was not evidence to support this testimony. The Tenant also testified that they currently have no money.
12. I 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The Tenants moved into the unit more than one year ago and have not paid rent since that time. The Tenants have also failed to pay the utility bills they are responsible to pay.

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:**
 - \$35,000 if the payment is made on or before April 28, 2023. See Schedule 1 for the calculation of the amount owing.

OR

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 April 28, 2023 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 April 28, 2023**
5. If the unit is not vacated on or before April 28, 2023, then starting April 29, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
6. 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 April 29, 2023.

April 17, 2023

Greg Joy
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 October 29, 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.

*Note: When the Board directs payment-out, the Canadian Imperial Bank of Commerce will issue a cheque to the appropriate party named in this notice. The cheque will be in the amount directed plus any interest accrued up to the date of the notice

**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 April 28, 2023

Rent Owing To	\$35,000.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlords since the application was filed	- \$0.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlords owe the Tenants for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants are entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$35,000.00

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

Rent Owing To Hearing Date	\$35,000.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$0.00
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	- \$3,000.00
Less the amount of the interest on the last month's rent deposit	- \$59.01
Less the amount the Landlords owe the Tenants for an {abatement/rebate}	- \$0.00

Less the amount of the credit that the Tenants are entitled to	- \$0.00
Total amount owing to the Landlords	\$35,000