



Order under Section 69 Residential Tenancies Act, 2006

Citation: Chan v Lit, 2023 ONLTB 22082

Date: 2023-02-22

File Number: LTB-L-039886-22

In the matter of: 7210, 88 HARBOUR ST
TORONTO ON M5J0C3

Between: Lok man Lam Landlords
Suet yu Chan

And

David Lit Tenant

Lok man Lam and Suet yu Chan (the 'Landlords') applied for an order to terminate the tenancy and evict David Lit (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on February 15, 2023. The Landlords attended the hearing and were represented by Rong wei Yu. As of 2:51pm, the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. The Landlords 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 \$4,000.00. It is due on the 15th day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$131.51. This amount is calculated as follows: \$4,000.00 x 12, divided by 365 days.
5. The Tenant has paid \$1.27 to the Landlord since the application was filed.
6. The rent arrears owing to March 14, 2023 are \$39,998.73.
7. The Landlords incurred costs of \$186.00 for filing the application and are entitled to reimbursement of those costs.
8. The Landlords collected a rent deposit of \$4,000.00 from the Tenant 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.

9. Interest on the rent deposit, in the amount of \$103.84 is owing to the Tenant for the period from February 2, 2022 to February 15, 2023.
10. The arrears of rent claimed exceed the Board's monetary jurisdiction of \$35,000.00. The Landlord's legal representative understood that in accordance with section 207(3) of the *Residential Tenancies Act, 2006* (Act), by pursuing this application before the Board, the Landlords cannot claim any arrears in excess of \$35,000,00 in a new application or before a Court of competent jurisdiction
11. While the Board cannot order a person to pay more than \$35,000.00, I find that this does not apply to "stay and pay" option set out in paragraph 2 below, as the Tenant is not required to pay that amount. The Tenant has the option of paying the amount in paragraph 2 if they wish to continue tenancy.
12. 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 Landlords 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.

It is ordered that:

1. The tenancy between the Landlords 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 Landlords or to the LTB in trust:**
 - \$40,184.73 if the payment is made on or before March 5, 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 March 5, 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 March 5, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlords \$32,212.40. 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 \$131.51 per day for the use of the unit starting February 16, 2023 until the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlords the full amount owing on or before March 5, 2023, the Tenant will start to owe interest. This will be simple interest calculated from March 6, 2023 at 5.00% annually on the balance outstanding.

8. If the unit is not vacated on or before March 5, 2023, then starting March 6, 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 March 6, 2023.

February 22, 2023

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 6, 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 Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before March 5, 2023

Rent Owing To March 14, 2023	\$40,000.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$1.27
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	\$40,184.73

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

Rent Owing To Hearing Date	\$36,131.50
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$1.27
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	- \$4,000.00
Less the amount of the interest on the last month's rent deposit	- \$103.84
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	\$32,212.40
Plus daily compensation owing for each day of occupation starting February 16, 2023	\$131.51 (per day)

