



Order under Section 78(6)
Residential Tenancies Act, 2006

File Number: CEL-97423-20

In the matter of: 41R, 35 BETTY NAGLE STREET
NORTH YORK ON M9M0E3

Between: Gaurangini Patel
Rakeshkumar Patel

Landlords

and

Andreas Kontozis
Giovanna Strazzeri

Tenants

I hereby certify this is a
true copy of an Order dated
Mar.9th,2021

Landlord and Tenant Board

Gaurangini Patel and Rakeshkumar Patel (the 'Landlords') applied for an order to terminate the tenancy and evict Giovanna Strazzeri and Andreas Kontozis (the 'Tenants') and for an order to have the Tenants pay the rent they owe because the Tenants failed to meet a condition specified in the order issued by the Board on October 23, 2020 with respect to application TNL-28167-20SA.

This application was heard by videoconference on February 18, 2021.

The Landlords and the second-named Tenant attended the hearing. The Landlord was assisted by his nephew Kritik Patel. The Tenant was represented by Lori Sheperd.

Determinations:

PRELIMINARY ISSUE

1. The Tenant's representative raised a preliminary issue seeking that the L4 application be dismissed as the rent claimed on the L4 application (\$2,800.00) was less than what it actually was for December 1, 2020 (\$2,861.60).
2. The Landlord conceded that there was an error on the L4 application, and that the Tenant's representative was correct. He sought to amend the L4 application to reflect the correct rent charged for December 1, 2020.
3. Rule 15.4 of the Board's Rules of Procedure states:

15.4 The LTB may exercise its discretion to grant a request to amend made at the hearing if satisfied the amendment is appropriate, would not prejudice any party and is consistent with a fair and expeditious proceeding.

4. Based on the submissions above, the Landlord's request to amend is granted as I do not find it prejudicial to either party to correct the Board's records to reflect the correct amount of rent owing for the month of December 2021; it is clear the Tenant is aware of this amount as the Tenant initially raised the issue. I proceeded to hear the L4 application.

L4 APPLICATION

5. Order TNL-28167-20SA issued on November 18, 2020 provided that the Landlords could apply to the Board under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') without notice to the Tenants to terminate the tenancy and evict the Tenants earlier than January 31, 2021 if the Tenants did not meet certain condition(s) specified in the order.
6. The parties agree that there was a breach of this order; specifically, that the Tenant failed to pay \$5,600.00 on or before November 30, 2020, at the time the Landlord filed the application on December 1, 2020. Since that breach, the Tenant also failed to pay the rent for December 2020 in full and no later than December 15, 2020.
7. The Landlord seeks an order terminating the tenancy and for payment of the arrears and costs owed.

TENANT'S REQUEST FOR RELIEF

8. The Tenant does not dispute the breaches alleged by the Landlord – although there is a dispute in the amount the Landlord is claiming as it includes arrears for the period prior to September 2020.
9. The Tenant testified that she wants to move out of the rental unit but has not been successful in securing a place, although has been actively looking since October 2019. She explains that her daughter has a terminal illness and so her housing outlooks are limited to those units surrounding the area of the Hospital for Sick Kids to ensure timely treatment.
10. The Tenant seeks a delay in eviction of thirty days to seek alternative housing and make arrangements to move out. She testified that she has lived in the rental unit since August 2019 with her three children, ages, 19, 18 and 14. She is a single mother managing the rent that was previously split between herself and her children's father. She testified that at present, all her income goes to her sick child's expenses.
11. The Landlord opposes the Tenant's request because this is not the first application where the Tenant is in breach of the order. Secondly, the Board exercised relief and provided a lengthy extension to the Tenant already – which has been filed with the Court Enforcement Office. The Tenant has had the opportunity to find alternative housing since November 2019 and instead has continued to live in the rental unit rent-free.

ANALYSIS

12. Based on the evidence before me, I find that the Tenant was in breach of the order dated November 18, 2020. This is undisputed by the parties.

13. **On February 9, 2021, there was a change in the regulations made under the Emergency Management and Civil Protection Act respecting the enforcement of LTB eviction orders. The regulations now state that the Court Enforcement Office (Sheriff) cannot enforce LTB eviction orders in regions where there is currently a stay-at-home order in effect, unless the order requests that the Sheriff expedite enforcement. Eviction orders that cannot currently be enforced may be filed with the Sheriff at any time, however they will not be enforced until after the stay-at-home order is removed. In all other areas of the province, where there is no stay-at-home order in effect, all LTB eviction orders can be enforced by the Sheriff. Further information is available on the LTB's website.**
14. **The Landlord asked that I include in the order a request to the Sheriff to expedite enforcement. The Landlord submits that as a result of the Tenants' arrears, they have had to take multiple loans from family friends to pay their mortgage which has taken a toll on their health as they rely on this rental income to support the mortgage and other expenses. No further documentary evidence was submitted in support of these assertions to demonstrate the serious and/or immediate harm to the Landlord warranting expedited enforcement.**
15. **As such, the Landlords' request for expedited enforcement is denied; while I am mindful of the Landlord's concerns with respect to the further accrual of rent arrears and the constant breaches of repayment plans, based on the submissions made by the Landlord, I do not find this to be an urgent issue that would warrant an expedited eviction. Therefore, the Sheriff cannot proceed with enforcement of this order until Regulation 13/21 has been removed by the Ontario Government.**
16. The previous application included a request for an order for the payment of arrears of rent. The resulting order required the Tenant to pay rent or some or all of the arrears of rent. Accordingly, in addition to eviction, the Landlord is entitled to request an order for the payment of arrears of rent and compensation.
17. However, the Tenant has filed for bankruptcy on September 29, 2020; thus, any claim to rent arrears arising prior to that date has been stayed. All payments made to the Landlord after September 29, 2020, should be deducted from the amount awarded to the Landlord.
18. The Tenant was ordered to pay \$12,500.00 for rent arrears and the costs related to the Landlord's application fee in Order TNL-28167-20SA. The amount that is stayed from that order is \$8,000.00, since the arrears accrued prior to September 29, 2020. The amount that is still owing from that order is \$4,500.00 and that amount is included in this order. As a result, the arrears portion of the previous order TNL-28167-20SA is cancelled.
19. Since the date of the order, the Tenant has failed to pay the full rent that became owing for the period from December 1, 2020 to February 28, 2021 in the amount of \$2,861.60 each month.
20. Between the last hearing and this hearing, the Tenant has made payments totaling \$1,450.00.

21. The Landlords collected a rent deposit of \$2,800.00 from the Tenants and this deposit is still being held by the Landlords.
22. Interest on the rent deposit is owing to the Tenants for the period from July 17, 2020 to March 1, 2021.
23. With respect to the Tenant's request for relief, although I share the concerns of the Landlord in that this is not the first time the Tenant has breached a payment plan ordered for the Tenant's benefit, I am mindful of the Tenant's personal circumstances including her daughter's illness, as well as the fact that we are amid a pandemic for which the impacts were not anticipated. As such, I find it appropriate to grant the Tenant a final extension of the eviction by 30 days as requested by the Tenant.
24. 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 not be unfair to postpone the eviction until March 31, 2021 pursuant to subsection 83(1)(b) of the Act.
25. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

It is ordered that:

1. The application is amended to reflect the rent for December 2020 as \$2,861.60.
2. The arrears portion of order TNL-28167-20SA is cancelled.
3. The tenancy between the Landlords and the Tenants is terminated. The Tenants must move out of the rental unit on or before March 31, 2021.
4. The Tenants shall pay to the Landlords \$8,737.42*. This amount represents the rent owing for the period October 1, 2021 through to March 1, 2021, less the rent deposit and interest the Landlords owe on the rent deposit plus the application filing fee.
5. The Tenants shall also pay to the Landlords \$94.08 per day for compensation for the use of the unit starting March 2, 2021 to the date the Tenants move out of the unit.
6. If the Tenants do not pay the Landlords the full amount owing* on or before March 31, 2021, the Tenants will start to owe interest. This will be simple interest calculated from April 1, 2021 at 2.00% annually on the balance outstanding.
7. If the unit is not vacated on or before March 31, 2021, then starting April 1, 2021, the Landlords may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
8. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlords on or after April 1, 2021.



Sonia Anwar-Ali
Member, Landlord and Tenant Board

March 1, 2021
Date Issued

Central-RO
3 Robert Speck Pkwy, 5th Floor
Mississauga ON L4Z2G5

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 13, 2021 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.

* Refer to the attached Summary of Calculations.

Summary of Calculations

File Number: CEL-97423-20

Amount the Tenant must pay

Reason for amount owing	Period	Amount
Amount owing from previous order or settlement plus New Arrears and New NSF cheque charges and related administration charges		\$13,084.80
Payments made by the Tenant since the last hearing (October 23, 2020 – February 18, 2020)		\$1,450.00
Less the rent deposit:		-\$2,800.00
Less the interest owing on the rent deposit	July 17, 2020 to March 1, 2021	-\$97.38
Plus daily compensation owing for each day of occupation starting March 2, 2021		\$94.08 (per day)
Total the Tenants must pay the Landlord:		\$8,737.42, + \$94.08 per day starting March 2, 2021