



Order under Section 69 Residential Tenancies Act, 2006

Citation: Drouin v Bangala, 2023 ONLTB 38603

Date: 2023-05-31

File Number: LTB-L-078985-22

In the matter of: D, 4524 INNES RD
ORLEANS ON K4A3J7

Between: Julie Bourcier
Sebastien Drouin

I hereby certify this is a
true copy of an Order dated

May 31, 2023


Landlord and Tenant Board

Landlords

And

Maguy Mibweni (AKA Zara) Bangala

Tenant

Julie Bourcier and Sebastien Drouin (the 'Landlord') applied for an order to terminate the tenancy and evict Maguy Mibweni (AKA Zara) Bangala (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on May 4, 2023.

The Landlord's Legal Representative Grace George and the Landlord Sebastien Drouin and the Tenant attended the hearing.

The parties were assisted by a French Language Interpreter Manual Costa.

Preliminary Issue:

1. The Landlord requested that the Board decline to hear submissions from the Tenant as the Board order LTB-L-078985-22 issued on April 19, 2023 directed the Tenant to pay lawful rent commencing on or before the 1st day of each month on April 1, 2023, and that the Tenant had not made any payments in accordance with the order.
2. The Tenant submitted that because the hearing on March 23, 2023 was in English that they did not understand the instructions after they had requested a hearing in French.
3. The Board issued its interim order in English and French and as such I am not satisfied that the Tenant did not understand the order. Even if received after April 1, 2023, the Tenant still failed to pay the lawful rent on May 1, 2023.
4. The order did not set out any consequences for failing to pay sums of money when ordered to do so by the Board.

5. The Divisional Court has found that a Tenant's continued non-payment of rent constitutes and abuse of process where the Tenant has been ordered to pay rent. The Divisional Court has held that where the Tenant's continued non-payment of rent arises that it is reasonable for the Board to determine if the Board should exercise discretion to permit submissions from the Tenant. Section 195(4) also states that the Board **MAY** refuse to consider the evidence and submissions of the Tenant.
6. I determined that it would be fair to deny any evidence and submissions in relation to any issues that the Tenant may raise in accordance with Section 82 of the Act. However, I would permit evidence and submissions in accordance with Section 83(2) where it is mandatory to review the circumstances and consider whether or not the Board should exercise discretion to deny, refuse, or postpone eviction.

Determinations:

7. 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.
8. As of the hearing date, the Tenant was still in possession of the rental unit.
9. The lawful rent is \$1,775.00. It is due on the 1st day of each month.
10. Based on the Monthly rent, the daily rent/compensation is \$58.36. This amount is calculated as follows: \$1,775.00 x 12, divided by 365 days.
11. The Tenant has not made any payments since the application was filed.
12. The rent arrears owing to May 31, 2023 are \$14,386.00.
13. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
14. The Landlord collected a rent deposit of \$1,775.00 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.
15. After the Landlord presented their evidence to prove the arrears of rent, the Tenant was offered an opportunity to cross-examine the Landlord, however they had no questions.
16. The Tenants preferred to make submissions. The Tenants explained the impact that this application and the poor landlord/tenant relationship has had on the Tenant and their family. The Tenant also submitted that the Landlord does not properly maintain the rental unit.
17. The Tenant also suggested that the N4 notice of termination and the application were defective because these documents did not list the Tenants' legal name.

18. The Board reviewed the Tenant submissions in this regard. The Board was satisfied that the legal first name and legal last name had been used in the notice and application. The difference was the middle name of the Tenant was not “Zara” but “Mibweni”. This does not constitute a serious error in that the Tenant did not know that the notice was directed to her. The Board therefore amended the application and this order to reflect the middle name identified by the Tenant.
19. I have carefully considered the submissions of the Tenant at the hearing, although no evidence was proffered to support the submissions, I do not find that these warrant consideration for relief.
20. The Landlord would continue to face financial hardship due to the continued non-payment of rent, and the Tenant did not make submissions on income nor regarding a payment plan.
21. The Landlord withdrew the L2 portion of the application at the hearing.
22. 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.

It is ordered that:

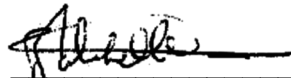
1. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
2. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$14,386.00 if the payment is made on or before May 31, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 - \$16,161.00 if the payment is made on or before June 11, 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 June 11, 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 June 11, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$11,069.44. 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 \$58.36 per day for the use of the unit starting May 5, 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 June 11, 2023, the Tenant will start to owe interest. This will be simple interest calculated from June 12, 2023 at 6.00% annually on the balance outstanding.
8. The Landlord or the Tenant 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 June 11, 2023, then starting June 12, 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 June 12, 2023.
11. The L2 application is withdrawn.

May 31, 2023
Date Issued



Robert Patchett
Vice Chair, 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 December 12, 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 May 31, 2023

Rent Owing To May 31, 2023	\$14,200.00
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	\$14,386.00

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before June 11, 2023

Rent Owing To June 30, 2023	\$15,975.00
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	\$16,161.00

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

Rent Owing To Hearing Date	\$12,658.44
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	- \$1,775.00
Less the amount of the interest on the last month's rent deposit	- \$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 amount owing to the Landlord	\$11,069.44
Plus daily compensation owing for each day of occupation starting May 5, 2023	\$58.36 (per day)