



Order under Section 69 Residential Tenancies Act, 2006

Citation: Saini v Lyttle, 2023 ONLTB 31882

Date: 2023-04-20

File Number: LTB-L-038357-22

In the matter of: 32 DALBEATTIE DR
BRAMPTON ON L6Y6H6

Between: Mohkam Singh Saini Landlord

And

Leon Lyttle Shardae Elaine Brooks Tenants

Mohkam Singh Saini (the 'Landlord') applied for an order to terminate the tenancy and evict Leon Lyttle and Shardae Elaine Brooks (the 'Tenant') because

- the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year.
- the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on March 9, 2023. Only the Landlord and their legal representative, S.Kapoor attended the hearing.

As of 10:36am, 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:

L2 APPLICATION

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the application is granted and the tenancy shall terminate.
2. The Tenant was in possession of the rental unit on the date the application was filed.

3. On June 16, 2022, the Landlord gave the Tenant an N12 notice of termination with the termination date of August 31, 2022. The Landlord claims that they require vacant possession of the rental unit for the purpose of residential occupation by themselves.
4. The Landlord filed a declaration with the Board confirming their intentions.
5. The Landlord has compensated the Tenant an amount equal to one month's rent by August 31, 2022.
6. In accordance with subsection 106(10) of the *Residential Tenancies Act, 2006*, (the 'Act') the last month's rent deposit shall be applied to the rent for the last month of the tenancy.
7. The Landlord testified that he would like to downsize. He is currently living in a detached house in Brampton and the rental unit is a townhome with less bedrooms and square feet.
8. As noted, the Tenant did not attend the hearing of this matter and thus I did not have the opportunity to hear their evidence regarding their circumstances. or to dispute the Landlord's application for an eviction order.
9. Based on the uncontested evidence, I find that the Landlord has a genuine intention to move in and that the notice was served in good faith.
10. 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.

L1 APPLICATION:

11. 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.
12. As of the hearing date, the Tenant was still in possession of the rental unit.
13. The lawful rent is \$2,800.00. It is due on the 1st day of each month.
14. Based on the Monthly rent, the daily rent/compensation is \$92.05. This amount is calculated as follows: \$2,800.00 x 12, divided by 365 days.
15. The Tenant has not made any payments since the application was filed.
16. The rent arrears owing to March 31, 2023 are \$33,600.00.
17. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
18. The Landlord collected a rent deposit of \$2,800.00 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.

19. Interest on the rent deposit, in the amount of \$86.15 is owing to the Tenant for the period from June 9, 2021 to March 9, 2023.
20. Because the tenancy is being terminated for both non-payment of rent and because the Landlord requires possession of the rental unit for their own use, the eviction is not voidable under section 74 of the Act.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before May 1, 2023.
2. If the unit is not vacated on or before May 1, 2023, then starting May 2, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. 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 May 2, 2023.
4. The Tenant shall pay to the Landlord \$28,928.30. 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.
5. The Tenant shall also pay the Landlord compensation of \$92.05 per day for the use of the unit starting March 10, 2023 until the date the Tenant moves out of the unit.
6. If the Tenant does not pay the Landlord the full amount owing on or before May 1, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 2, 2023 at 6.00% annually on the balance outstanding.
7. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.

April 20, 2023

Date Issued

Curtis Begg

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 November 2, 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 if the tenancy is terminated

Rent Owing To Hearing Date	\$31,628.45
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	- \$2,800.00
Less the amount of the interest on the last month's rent deposit	- \$86.15
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	\$28,928.30
Plus daily compensation owing for each day of occupation starting March 10, 2023	\$92.05 (per day)