



Order under Section 69 Residential Tenancies Act, 2006

Citation: Doran v Blue, 2023 ONLTB 16668

Date: 2023-01-27

File Number: LTB-L-028230-22

In the matter of: Unit B, 67 VANCOUVER ST
BARRIE ON L4M4M2

Between: Kelly Doran and William Doran

Landlord

And

Cory Blue and Nicole Stephenson

Tenants

Kelly Doran and William Doran (the 'Landlord') applied for an order to terminate the tenancy and evict Cory Blue and Nicole Stephenson (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on January 17, 2023.

The Landlord and the Landlord's Legal Representative, S. Robins and the Tenants attended the hearing.

Determinations:

1. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Non-payment 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.
2. As of the hearing date, the Tenants were still in possession of the rental unit.
3. The lawful rent is \$1,368.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$44.98. This amount is calculated as follows: \$1,368.00 x 12, divided by 365 days.
5. The Tenants has not made any payments since the application was filed.
6. The rent arrears owing to January 31, 2023 are \$13,680.00.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$1,350.00 from the Tenants 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.

9. Interest on the rent deposit, in the amount of \$87.68 is owing to the Tenants for the period from July 13, 2018 to January 17, 2023.

Relief from eviction

10. The Tenant, C. Blue testified that his partner, the other named Tenant lost her job around February of last year. He testified that they have cut down on their monthly expenses significantly in order to get into a better financial position. He testified that because he received an N5 notice of termination, he was under the impression that he had to leave the unit, although he didn't vacate, and the Landlord did not pursue that notice of termination. He testified that that is why he did not make any payments towards the rent since this application was filed.
11. The Tenant suggests a payment plan that would see the arrears paid off in approximately 2 years. He testified that a lump sum payment of \$3,000.00 be made then monthly payments of \$500.00 thereafter until the arrears are paid in full.
12. The Landlord is seeking a standard order. The Landlord's legal representative submits that this Landlord is a small landlord and the non-payment of the rent has had a negative effect on him.
13. Based on the evidence before me, I do not find that the payment plan suggested by the Tenant is reasonable or fair in the circumstances. The Tenants have not made any payments towards the rent since at least April of 2022, despite having some income with which to do so. The Tenant testified that they received a different notice of termination from the Landlord and believed they had to vacate the unit so that is why they did not pay any rent, yet they did not vacate the unit and did not pay any rent. I do not find that a 2-year repayment plan is reasonable in these circumstances, taking into consideration the negative effect that non payment of the rent has had on the Landlord. I am not convinced that the Tenants will prioritize making payments towards the arrears as well as regular rent payments given that they have not made a single payment since April 2022 despite having income to do so. I am mindful of the Tenant's circumstances and find that it would not be unfair to delay the eviction to give the Tenant's time to vacate the unit.
14. 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 February 28, 2023 pursuant to subsection 83(1)(b) of the Act.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants voids this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$13,866.00 if the payment is made on or before January 31, 2023. See Schedule 1 for the calculation of the amount owing.

OR

- \$15,234.00 if the payment is made on or before February 28, 2023. See Schedule 1 for the calculation of the amount owing.
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 has paid the full amount owing as ordered plus any additional rent that became due after February 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 does not pay the amount required to void this order the Tenants must move out of the rental unit on or before February 28, 2023**
 5. If the Tenants does not void the order, the Tenants shall pay to the Landlord \$11,824.98. 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 Tenants. See Schedule 1 for the calculation of the amount owing.
 6. The Tenants shall also pay the Landlord compensation of \$44.98 per day for the use of the unit starting January 18, 2023 until the date the Tenants moves out of the unit.
 7. If the Tenants does not pay the Landlord the full amount owing on or before February 7, 2023, the Tenants will start to owe interest. This will be simple interest calculated from February 8, 2023 at 5.00% annually on the balance outstanding.
 8. The Landlord or the Tenants 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 February 28, 2023, then starting March 1, 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 March 1, 2023.

January 27, 2023
Issued

Date
 Emily Robb
 Member, Landlord and Tenants 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 1, 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 Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before January 31, 2023

Rent Owing To January 31, 2023	\$13,680.00
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 the Landlord owes the Tenants for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$13,866.00

B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before February 28, 2023

Rent Owing To February 28, 2023	\$15,048.00
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 the Landlord owes the Tenants for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$15,234.00

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

Rent Owing To Hearing Date	\$13,076.66
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	- \$1,350.00
Less the amount of the interest on the last month's rent deposit	- \$87.68
Less the amount the Landlord owes the Tenants for an {abatement/rebate}	- \$0.00

Less the amount of the credit that the Tenants is entitled to	- \$0.00
Total amount owing to the Landlord	\$11,824.98
Plus daily compensation owing for each day of occupation starting January 18, 2023	\$44.98 (per day)