



Order under Section 69
Residential Tenancies Act, 2006

File Number: SWL-47223-20

In the matter of: 3, 866 ST LUKE ROAD
WINDSOR ON N8Y3M5

Between: Manage4u Property Management Ltd. Landlord

and

Julien Brunelle Tenant

Manage4u Property Management Ltd. (the 'Landlord') applied for an order to terminate the tenancy and evict Julien Brunelle (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by video conference on June 17, 2021. The Landlord's legal representative, Tim Currie, the Tenant attended the hearing. The Tenant did not elect to speak with Duty Counsel prior to the commencement of the hearing.

Determinations:

1. The Tenant is in possession of the rental unit.
2. The monthly rent is \$418.24.
3. The Tenant has not paid the total rent the Tenant was required to pay for the period from August 1, 2018 to June 30, 2021. Because of the arrears, the Landlord served a Notice of Termination effective November 14, 2020.
4. It is the Landlord's position that the Tenant has made no payments since the application was filed.
5. The Tenant testified that he provided the Landlord with post-dated cheques for the rent and that he ought not be liable for rent cheques the Landlord may have lost.
6. I found the Tenant's evidence with respect to the post-dated cheques to be vague and unclear. The ledger provided by the Tenant did little to support his position that he provided the Landlord with post-dated cheques. I say this because the ledger indicates that the Tenant did not pay the rent between August 2018 and December 2018 until a cheque was provided to the Landlord on December 17, 2018. The ledger also only goes up to December 1, 2019.

7. The Tenant seems to allege that he sent the post-dated cheques by registered mail but was unable to present a copy of the signed receipt verifying that they had been received by the Landlord. In my view, this would have been easy to provide had the Tenant provided the Landlord with the post-dated cheques.
8. The Tenant acknowledges that the cheques were not cashed by the Landlord and that the money is still in his bank account.
9. Based on the evidence and submissions of the parties, I find that the Landlord is not in receipt of rent cheques from the Tenant.

Is the Landlord holding a last month's rent deposit?

10. In the application filed with the Board, the Landlord does not indicate that they are holding a last month's rent deposit. The Tenant maintains that he paid a last month's rent deposit when he moved in ten years ago.
11. Having reviewed the account ledger submitted by the Tenant, I am satisfied that he paid the Landlord a last month's rent deposit in the amount of \$409.24 on June 1, 2010. There is no evidence before me indicating that this was returned to the Tenant or applied to rent at the time ownership of the property changed hands. Accordingly, I find that the Landlord collected a rent deposit of \$409.24 from the Tenant and this deposit is still being held by the Landlord.
12. Interest on the rent deposit is owing to the Tenant for the period from June 1, 2010 to November 14, 2020.

Section 82 issues

13. As explained in the Notice of Hearing package, a tenant is required to complete and provide to the landlord and the Board the form "Issues a Tenant Intends to Raise at a Rent Arrears Hearing" if they intended to raise issues pursuant to section 82 of the *Residential Tenancies Act, 2006* (the 'Act'). The Tenant did not complete such form.
14. The Tenant submitted documents titled "police" and "furnace". These documents do not adequately describe the issues or request an identifiable remedy as required and, as such, will be not be considered at this time.
15. It should be noted that the issue with the furnace was dealt with in order SWL-41217-20, issued on November 16, 2020. In order SWL-41217-20, the only remedy ordered was direction that the Landlord repair the furnace. It was the Landlord's evidence that the Tenant confirmed that the furnace technician attended the rental unit and found the furnace to be in working order. There was no evidence before me establishing that the furnace continued to be in a state of disrepair after December 2020.

Section 83 considerations

16. I have considered all of the disclosed circumstances in accordance with section 83 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.
17. This is a tenancy of over ten years. The Tenant's source of income is \$1,200.00 a month. The Tenant did not seek any relief from eviction indicating that he has the money to pay what is owing to the Landlord if he is ordered to make such payment. Accordingly, the Tenant will have the opportunity to void this order by paying the amount owing to the Landlord.

It is ordered that:

1. Unless the Tenant voids the order as set out below, the tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before July 26, 2021.
2. The Tenant shall pay to the Landlord \$3,421.84*, which represents the amount of rent owing and compensation up to July 15, 2021, less the rent deposit and interest the Landlord owes on the rent deposit.
3. The Tenant shall also pay to the Landlord \$13.75 per day for compensation for the use of the unit starting July 16, 2021 to the date the Tenant moves out of the unit.
4. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
5. If the Tenant does not pay the Landlord the full amount owing* on or before July 26, 2021, the Tenant will start to owe interest. This will be simple interest calculated from July 27, 2021 at 2.00% annually on the balance outstanding.
6. If the unit is not vacated on or before July 26, 2021, then starting July 27, 2021, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
7. 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 July 27, 2021.
8. If, on or before July 26, 2021, the Tenant pays the amount of \$4,325.35** to the Landlord or to the Board in trust, this order for eviction will be void. This means that the tenancy would not be terminated and the Tenant could remain in the unit. If this payment is not made in full and on time, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.

9. The Tenant may make a motion to the Board under subsection 74(11) of the Act to set aside this order if they pay the amount required under that subsection on or after July 27, 2021 but before the Sheriff gives vacant possession to the Landlord. The Tenant is only entitled to make this motion once during the period of the tenancy agreement with the Landlord.

July 15, 2021
Date Issued



Dawn Sullivan
Member, Landlord and Tenant Board

South West-RO
150 Dufferin Avenue, Suite 400, 4th Floor
London ON N6A5N6

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 January 27, 2022 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 section A on the attached Summary of Calculations.
- ** Refer to section B on the attached Summary of Calculations.

**Schedule 1
SUMMARY OF CALCULATIONS**

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2021 CanLII 108295 (ON LTB)

A. Amount the Tenant must pay if the tenancy is terminated:

Reasons for amount owing	Period	Amount
Arrears: (up to the termination date in the Notice of Termination)	August 1, 2018 to November 14, 2020	\$567.69
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	November 15, 2020 to July 15, 2021	\$3,341.25
Less the rent deposit:		-\$409.24
Less the interest owing on the rent deposit:	June 1, 2010 to November 14, 2020	-\$77.86
Amount owing to the Landlord on the order date: (total of previous boxes)		\$3,421.84
Additional costs the Tenant must pay to the Landlord:		\$186.00
Plus daily compensation owing for each day of occupation starting July 16, 2021:		\$13.75 (per day)
Total the Tenant must pay the Landlord if the tenancy is terminated:		\$3,607.84, + \$13.75 per day starting July 16, 2021

B. Amount the Tenant must pay to void the eviction order and continue the tenancy:

Reasons for amount owing	Period	Amount
Arrears:	August 1, 2018 to July 31, 2021	\$4,139.35
Additional costs the Tenant must pay to the Landlord:		\$186.00
Total the Tenant must pay to continue the tenancy:	On or before July 26, 2021	\$4,325.35