

Order under Section 87(1)
Residential Tenancies Act, 2006

File Number: SWL-21687-18

In the matter of: APT. B - UPPER, 155 WESTMINSTER DRIVE S
CAMBRIDGE ON N3H1S9

Between: Radoslaw (Rad) Gwiazdowski Landlords
Magdalena (Maggie) Gwiazdowski

and

Sarah Leblanc

I certify this is a true copy of the order
D. Mills
Staff member

Dated: OCT 26 2018
Landlord and Tenant Board

Tenant

Radoslaw (Rad) Gwiazdowski and Magdalena (Maggie) Gwiazdowski (the 'Landlords') applied for an order to terminate the tenancy and evict Sarah Leblanc (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard in Waterloo on October 16, 2018. The Landlords, Radoslaw Gwiazdowski and Magdalena Gwiazdowski, attended the hearing. As of 12:09 p.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the Board.

Determinations:

1. The Tenant was in possession of the rental unit on the date the application was filed.
2. The Tenant has not paid the total rent the Tenant was required to pay for the period from September 1, 2018 to October 31, 2018.
3. The Notice to End a Tenancy Early for Non-payment of Rent (Form N4) served on Tenant included claims for outstanding rent and outstanding utility payments. The Landlords agreed that utilities are paid separately, and are not included in the rent. Subsection 59(2) of the *Residential Tenancies Act, 2006* ('the Act') sets out that only rent arrears can be claimed on the N4 notice. The inclusion of the hydro arrears invalidates the N4 notice.
4. After advising the Landlords of the deficiency of the N4 notice, which meant the Board could not order termination of the tenancy; I offered the Landlords the option of amending their application to a request for arrears and costs only. The Landlords chose to proceed with an application for arrears only and I granted this amendment to the application. As a result, the order will be limited to rent arrears and costs only, not eviction.

5. The application is amended to adjust the rent claimed for September 2018 to \$950.00.
6. The monthly rent is \$950.00.
7. The application is amended to reflect the rent owing up to the end of October 31, 2018.
8. The Landlord collected a rent deposit of \$960.00 from the Tenant and this deposit is still being held by the Landlords.
9. The Tenant has made no payments since the application was filed.

It is ordered that:

1. ***Due to a potential Canada Post strike, the Landlord must immediately give a copy of this Order to the Tenant by:***
 - i. handing it to the tenant;*
 - ii. handing it to an apparently adult person in the rental unit;*
 - iii. leaving it in the tenant's mailbox; or,*
 - iv. if there is no mailbox, leaving it at the place where mail is ordinarily delivered to the tenant; or*
 - v. placing a copy of the order under the door of the rental unit or through a mail slot in the door; or*
 - vi. if there is a fax machine where the tenant resides, by fax*

The Landlord shall not use regular mail, registered mail, Xpresspost or any courier service that is used by Canada Post to deliver the Order.

2. The Tenant shall pay to the Landlords \$1,900.00, which represents the amount of rent owing up to October 31, 2018.
3. The Tenant shall also pay to the Landlords \$175.00 for the cost of filing the application.
4. If the Tenant does not pay the Landlords the full amount owing on or before November 6, 2018, the Tenant will start to owe interest. This will be simple interest calculated from November 7, 2018 at 3.00% annually on the balance outstanding.

October 26, 2018
Date Issued


Melanie Love
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.