



Order under Section 69 Residential Tenancies Act, 2006

Citation: Galaxy Value Add Ontario Properties LP v Saied, 2023 ONLTB 17034

Date: 2023-01-25

File Number: LTB-L-025756-22

In the matter of: 205, 144 BRYBECK CRES
KITCHENER ON N2M2C6

Between: Galaxy Value Add Ontario Properties LP Landlord

And

Ali Abdalla Mohamed Tenants
Kadija Saied

Galaxy Value Add Ontario Properties LP (the 'Landlord') applied for an order to terminate the tenancy and evict Ali Abdalla Mohamed and Kadija Saied (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on January 16, 2023.

The Landlord did not attend the hearing but was represented by Gail Kukor Lang.

As of 1:41 p.m., the Tenants were 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.

PRELIMINARY MATTERS

1. The Landlord's legal representative sought to amend the application to correct clerical errors. This request was granted.
2. The legal representative indicated that the monthly rent claimed and rent paid under the section of the application entitled 'Details of the Landlord's Claim' located on pages 7 and 8 were incorrect, resulting in an overstated 'Total Rent Owning' claimed of \$2,375.95. The amendment request sought to correct the final total to \$1,285.95. As it would be unfair to the Tenants to proceed with this clerical error, the request was granted.

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 \$1,108.69. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$36.45. This amount is calculated as follows: \$1,108.69 x 12, divided by 365 days.
5. The Tenants had paid \$9,320.00 to the Landlord since the application was filed.
6. The rent arrears owing to January 31, 2023 are \$646.19.
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 \$1,009.54 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 \$13.22 is owing to the Tenants for the period from January 1, 2021 to January 16, 2023.
10. 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 Tenants and find that it would not be unfair to grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.

It is ordered that:

1. The Tenants shall pay to the Landlord \$832.19, which represents the arrears of rent (\$646.19) and costs (\$186.00) outstanding for the period ending January 31, 2023.
2. The Landlord's application for eviction of the Tenants is denied on the condition that:
 - (a) The Tenants shall make the following payments to the Landlord in respect of the monies owing under paragraph 1 of this order:
 1. Beginning on or before February 1, 2023, the Tenants shall pay the Landlord \$200.00, and shall continue to pay the Landlord \$200.00 per month on or before the 1st day of each month during the period of March 1, 2023, to May 1, 2023;
 2. On or before June 1, 2023, the Tenants shall pay the Landlord \$32.19.
 - (b) The Tenants shall also pay the Landlord the lawful monthly rent as it becomes due on or before the 1st day of the month starting February 1, 2023 until the arrears are paid in full.
3. If the Tenants fail to make any of the payments in accordance with paragraph 2, and by the dates required, then:
 - (a) The Landlord may apply, without notice to the Tenants, under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the

tenancy and evicting the Tenants, and for the payment of any new arrears of rent and NSF charges not already ordered under paragraph 1 of this order. The Landlord must make the application within 30 days of a breach of a condition set out in paragraph 2 of this order.

- (b) The balance owing under paragraph 1 of this order shall become payable on the day following the date of default. The monies shall bear interest at the post-judgement interest rate determined under subsection 207(7) of the Act.

January 25, 2023
Date Issued

Emile Ramlochan
Member, Landlord and Tenant Board

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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.