



Order under Section 69 Residential Tenancies Act, 2006

Citation: Alfonso Properties Inc. v Kirouac, 2022 ONLTB 13034

Date: 2022-12-01

File Number: LTB-L-020258-22

In the matter of: 4, 87 GRIFFITH ST
WELLAND ON L3B4G6

I hereby certify this is a
true copy of an Order dated
DEC 01 2022
Landlord and Tenant Board

Between: Alfonso Properties Inc.

Landlord

And

Samantha Kirouac, Trevor Johnston

Tenants

Alfonso Properties Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Samantha Kirouac, Trevor Johnston (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on October 25, 2022.

The Landlord's Legal Representative, K. Hawkes 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 \$1,214.40. It is due on the first day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$39.93. This amount is calculated as follows: \$1,214.40 x 12, divided by 365 days.
5. The Tenants has paid \$1,214.00 to the Landlord since the application was filed.
6. The rent arrears owing to October 31, 2022 are \$9,710.00.
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 \$1,200.00 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 \$22.41 is owing to the Tenants for the period from April 6, 2021 to October 25, 2022.

Relief from Eviction


10. The Tenants testified that they live in the unit with their three children, ages 18 months, 4 years old and 7 years old. They have lived in the unit since June of 2020. The Tenant, T. Johnson, lost his job in April of this year. The Tenant S. Kirouac went back to work from maternity leave around the same time. The Tenants testified that T. Johnson is currently looking for a part time job to help supplement their income.
11. The Tenant's are suggesting a payment plan that would have the arrears paid off in about 2 and a half years, by paying \$300.00 a month until the paid in full.
12. The Landlord is seeking a standard order.
13. I do not find that the payment plan the Tenants are suggesting is reasonable or affordable in the circumstances. After going through the Tenant's monthly expenses versus their income, it is clear that they cannot afford the payments that they are suggesting. After expenses including the monthly rent, they are left with a negative balance. The Tenants testified that T. Johnston is looking for a job, however, as of the date of the hearing, he has not found one. I note that the Tenants have not paid anything to the Landlord since June. The Tenants had some income coming in yet testified at the hearing that they prioritized other expenses over their rent obligation. It is hard to believe, going forward, that the Tenants will prioritize there rent obligation over other expenses to make this payment plan feasible, even if it was affordable.
14. I find that it would not be unfair in the circumstances to delay the eviction. The Tenants have 3 young children who live in the unit with them. I acknowledge that delaying the eviction will occasion some prejudice on the Landlord in the form of additional arrears. However, when I balance that against the Tenant's circumstances, as well as the impact that eviction will have on their 3 children, I ultimately conclude that delaying eviction will not be unfair in the circumstances.
15. 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 December 30, 2022 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:**
 - \$12,324.80 if the payment is made on or before December 30, 2022. 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 December 30, 2022 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 do not pay the amount required to void this order the Tenants must move out of the rental unit on or before December 30, 2022.**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$8,457.44. 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 \$39.93 per day for the use of the unit starting October 26, 2022 until the date the Tenants moves out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before December 30, 2022, the Tenants will start to owe interest. This will be simple interest calculated from December 31, 2022 at 4.00% annually on the balance outstanding.
8. If the unit is not vacated on or before December 30, 2022, then starting December 31, 2022, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
9. 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 December 31, 2022.

December 1, 2022
Date Issued



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 June 30, 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 December 30, 2022

Rent Owing To December 31, 2022	\$13,352.80
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$1,214.00
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	- \$
Total the Tenants must pay to continue the tenancy	\$12,324.80

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

Rent Owing To Hearing Date	\$10,707.85
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$1,214.00
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	- \$1,200.00
Less the amount of the interest on the last month's rent deposit	- \$22.41
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	- \$
Total amount owing to the Landlord	\$8,457.44
Plus daily compensation owing for each day of occupation starting October 26, 2022	\$39.93 (per day)