



Order under Section 69 Residential Tenancies Act, 2006

Citation: Mahajan v Gayle, 2024 ONLTB 8090

Date: 2024-01-29

File Number: LTB-L-065781-23

In the matter of: 87, 2500 HILL RISE CRT OSHAWA
ON L1L0M6

Between: Ashika Mahajan and Rohit Shirke Landlords

And

Charlene Angela Gayle Tenant

Ashika Mahajan and Rohit Shirke (the 'Landlords') applied for an order to terminate the tenancy and evict Charlene Angela Gayle (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 17, 2024.

The Landlords, the Landlords' Legal Representative Jordan Nieuwhof, the Tenant and the Tenant's support Brianna Rayson attended the hearing.

Determinations:

1. The Landlords served the Tenant with a valid Notice to End Tenancy Early for Nonpayment of Rent (N4 Notice). The Tenant 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 Tenant was still in possession of the rental unit.
3. The lawful rent is \$2,400.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$78.90. This amount is calculated as follows: \$2,400.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.

6. The rent arrears owing to January 31, 2024 are \$14,400.00.
7. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlords collected a rent deposit of \$2,400.00 from the Tenant and this deposit is still being held by the Landlords. 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 \$68.38 is owing to the Tenant for the period from November 28, 2022 to January 17, 2024.
10. The Tenant did not dispute that she owes the arrears alleged by the Landlords.
11. The Tenant sought a delay in eviction for 90 days. The Landlords sought a standard 11 day eviction order or, in the alternative, a 30 day delay.
12. 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 29, 2024 pursuant to subsection 83(1)(b) of the Act.
13. The Tenant agrees that she is no longer able to afford the rental unit and she did not seek a conditional order based on a payment plan. Instead, she a 90 day delay in eviction to find new accommodations for herself and her 17 year old son. However, she also testified that she is unable to pay ongoing rent if there was a delay in eviction.
14. The Tenant testified that had been paying her rent until she started experiencing problems at work in the summer of 2023. She stated that her employer experienced some changes and that she no longer received the same pay as she once did as her role with the company changed. She further stated that she is actively trying to seek new work but has not yet been successful. She also testified that the stress of the situation with her housing has caused her to become ill and lose further income.
15. The Tenant testified that she has applied to the Community Development Council in Durham for help in paying her rent, but that she was not approved for assistance. She stated that she has been looking for new accommodations for herself and her son, but that she has not been able to find anything yet. She is concerned that if she is evicted that she and her son will be split up in the shelter system.
16. The Landlords Ms. Mahajan testified that the Landlords have been trying to work with the Tenant to establish a payment plan but were unsuccessful. She stated that they have not been paid rent for the past 6 months and that they have been suffering financially and emotionally as a result. They have had to take out a loan to pay the mortgage on the rental unit. The Landlords are small Landlords and the income they make renting out this unit is part of the income they use to sustain themselves.

17. After considering all of the circumstances, I find that a delay in eviction until February 29, would not be unfair to the Landlords. The Tenant agrees that she is unable to sustain this tenancy and unable to pay the arrears. However, considering that the Landlords were not opposed to a short delay of 30 days, I find that ongoing prejudice can be minimized by the application of the last month's rent deposit to the month of February and will allow the Tenant and her son to secure new accommodations.

It is ordered that:

1. The tenancy between the Landlords and the Tenant is terminated unless the Tenant voids this order.

2. **The Tenant may void this order and continue the tenancy by paying to the Landlords or to the LTB in trust:**
 - \$14,586.00 if the payment is made on or before January 31, 2024. See Schedule 1 for the calculation of the amount owing.

OR

 - \$16,986.00 if the payment is made on or before February 29, 2024. See Schedule 1 for the calculation of the amount owing.

3. The Tenant may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenant has paid the full amount owing as ordered plus any additional rent that became due after February 29, 2024 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.

4. **If the Tenant does not pay the amount required to void this order the Tenant must move out of the rental unit on or before February 29, 2024**

5. If the Tenant does not void the order, the Tenant shall pay to the Landlords \$11,058.92. 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 Landlords owes on the rent deposit are deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.

6. The Tenant shall also pay the Landlords compensation of \$78.90 per day for the use of the unit starting January 18, 2024 until the date the Tenant moves out of the unit.

7. If the Tenant does not pay the Landlords the full amount owing on or before February 9, 2024, the Tenant will start to owe interest. This will be simple interest calculated from February 10, 2024 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before February 29, 2024, then starting March 1, 2024, the Landlords 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 Landlords on or after March 1, 2024.

January 29, 2024

Date Issued

Angela Long

Member, Landlord and Tenant 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, 2024 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 Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before January 31, 2024

Rent Owing To January 31, 2024	\$14,400.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlords since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlords owes the Tenant for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total the Tenant must pay to continue the tenancy	\$14,586.00

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before February 29, 2024

Rent Owing To February 29, 2024	\$16,800.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlords since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlords owes the Tenant for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total the Tenant must pay to continue the tenancy	\$16,986.00

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

Rent Owing To Hearing Date	\$13,341.30
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlords since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$2,400.00
Less the amount of the interest on the last month's rent deposit	- \$68.38
Less the amount the Landlords owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlords	\$11,058.92
Plus daily compensation owing for each day of occupation starting January 18, 2024	\$78.90 (per day)