



Order under Section 69 Residential Tenancies Act, 2006

Citation: Emmanuel v Hoo hing, 2024 ONLTB 17061

Date: 2024-03-11

File Number: LTB-L-061181-23

In the matter of: 31 PENDER CRES (Basement) SCARBOROUGH
ON M1T2M8

Between: Alvin Emmanuel Landlords
Julie Emmanuel

And

Jered Hoo hing Tenant

Alvin Emmanuel and Julie Emmanuel (the 'Landlords') applied for an order to terminate the tenancy and evict Jered Hoo Hing (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 22, 2024.

The Landlords and the Tenant attended the hearing.

Determinations:

1. The Landlords served the Tenant with a valid Notice to End Tenancy Early for Non-payment 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 \$850.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$27.95. This amount is calculated as follows: \$850.00 x 12, divided by 365 days.

5. The Tenant has paid \$3,380.00 to the Landlords since the application was filed.
6. The rent arrears owing to January 31, 2024 are \$6,820.00.
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 \$775.00 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 \$123.86 is owing to the Tenant for the period from October 30, 2013 to January 22, 2024.

Relief from eviction

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 Landlords 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.
11. The Landlords testified that they attempted to communicate with the Tenant regarding a repayment plan every month up until the hearing date. The Landlord received a response in which the Tenant paid an additional amount toward the arrears. I am satisfied the Landlord met their obligation to attempt to negotiate a repayment plan with the Tenant in accordance with section 83(6) of the Act.
12. The Landlord sought a 'standard' eviction order based on the amount of the arrears. The arrears were described as substantial with a few good faith payments made by the Tenant since the application was filed.
13. The Tenant wants to preserve her tenancy and avoid eviction he does not have very much familial support and does not have anywhere else to go. The Tenant has been unemployed since April 2023. He was attempting to sell some assets in the form of collectable within the next 30 days in hopes of finding money to pay toward the arrears. He has not applied for any community financial assistance to assist with the arrears.
14. The Tenant's limited income and the unknown status of support from the sale of assets and community financial supports toward the arrears suggests that this tenancy is not financially viable. The Tenant is heavily reliant on outside sources to financially support this tenancy. The Tenant did not provide any witnesses to testify that they would be assisting him in paying the rent. Therefore, I do not find that the proposed financial plan is realistic.

15. The delay since the hearing has provided the Tenant with some additional time to find alternative housing or to source the money to pay the Landlord back the rent he owes. I will also note that the Tenant has had since the hearing date to look for housing and as well may be given additional time due to the inevitable delay with the Landlord enforcing this order through the Sheriff's office. This delay is not so extensive that it shall severely prejudice the Landlord.

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:**
 - \$8,706.00 if the payment is made on or before March 22, 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 March 22, 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 March 22, 2024**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlords \$5,872.04. 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 \$27.95 per day for the use of the unit starting January 23, 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 March 22, 2024, the Tenant will start to owe interest. This will be simple interest calculated from March 23, 2024 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before March 22, 2024, then starting March 23, 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 23, 2024.

March 11, 2024

Date Issued

Camille Clyne

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 23, 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 March 22, 2024

Rent Owing To March 31, 2024	\$11,900.00
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlords since the application was filed	- \$3,380.00
Total the Tenant must pay to continue the tenancy	\$8,706.00

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

Rent Owing To Hearing Date	\$9,964.90
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlords since the application was filed	- \$3,380.00
Less the amount of the last month's rent deposit	- \$775.00
Less the amount of the interest on the last month's rent deposit	- \$123.86
Total amount owing to the Landlords	\$5,872.04
Plus daily compensation owing for each day of occupation starting January 23, 2024	\$27.95 (per day)

2024 ONL TB 17061 (CanLI)