



Order under Section 69 Residential Tenancies Act, 2006

Citation: Monteleone v Troyer, 2024 ONLTB 16000

Date: 2024-03-28

File Number: LTB-L-061758-23

In the matter of: 1, 21 TWENTY SECOND ST Toronto
ON M8V3M2

Between: Domenico Monteleone Landlord

And

Heera Dhillon Singh Tenant

Domenico Monteleone (the 'Landlord') applied for an order to terminate the tenancy and evict Heera Dhillon Singh (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on February 20, 2024.

The Landlord, Landlord's Agent, Agostino Monteleone, Landlord's Legal Representative, Jordan Nieuwhof and the Tenant, July Anne April Troyer, attended the hearing.

Preliminary Matter:

1. The Landlord's Legal Representative stated that his client had a consent agreement, in principle, with the Tenant Julie Anne April Troyer. I indicated that as the 2nd named Tenant, Heera Dhillon Singh, is not a party, or aware, of this consent agreement that it would not be appropriate to proceed. The Landlord's Legal Representative requested that the application proceed to be heard on its merits.
2. The Landlord's Legal Representative requested that Julie Anne April Troyer be removed from the tenancy, as she had served an N15 notice of termination. The N15 notice has a termination date of May 9, 2023. However, the notice was prepared on October 12, 2023. Julie Anne April Troyer testified that the notice had been backdated. I determined that the N15 notice was invalid as it had not been served 28 days before the date of termination, as outlined in subsection 47.1 (3) of the *Residential Tenancies Act, 2006* (the 'Act')
3. The Landlord's Agent testified that the parties had agreed to remove Julie Anne April Troyer from the tenancy. He referenced a text message from 2nd named Tenant Heera

Singh, dated January 14, 2024, acknowledging the removal of Julie Anne April Troyer. In addition, he also presented correspondence between the Landlord and Julie Anne April Troyer, dated June 17, 2023, confirming that Ms. Troyer should be removed from the tenancy for the end of June 2023. As the N4 notice of termination had been served on July 7, 2023, I determined that Julie Anne April Troyer was no longer a tenant of this unit as of June 30, 2023, as a result of a joint agreement of all parties to remove her from the tenancy. As such, she is not a party to this application and would not be responsible to address the claimed rent arrears.

Determinations:

1. The Landlord 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. The Landlord's Legal Representative stated that the Tenant was currently incarcerated. However, the N4 notice of termination, Notice of Hearing (NOH) and disclosure material had been provided to the Tenant at their detention centre. It is noted the Tenant did not attend the hearing. The Landlord's Legal Representative provided uncontested evidence that the Tenant had not vacated the unit as the Tenant's belongings were still in the unit, nor had he communicated any intent to vacate the unit.
3. The lawful rent is \$1,280.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$42.08. This amount is calculated as follows: \$1,280.00 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 February 29, 2024 are \$10,240.00.
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 \$1,250.00 from the Tenant 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 \$55.84 is owing to the Tenant for the period from November 1, 2021 to February 20, 2024.
10. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The Landlord submits that the Tenant has not responded to his inquiries about whether he intends to preserve the tenancy. The Tenant had previously stated he would make payments towards the rent arrears which have not occurred. As there has been no payments made since July 2023,

and lack of communication from the Tenant to the Landlord, I find it appropriate that a standard 11 day order be issued.

It is ordered that:

1. The tenancy between the Landlord 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 Landlord or to the LTB in trust:**
 - \$11,706.00 if the payment is made on or before March 31, 2024. See Schedule 1 for the calculation of the amount owing.

OR

 - \$12,986.00 if the payment is made on or before April 8, 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 April 8, 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 April 8, 2024**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$8,681.76. 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 Tenant. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$42.08 per day for the use of the unit starting February 21, 2024 until the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlord the full amount owing on or before April 8, 2024, the Tenant will start to owe interest. This will be simple interest calculated from April 9, 2024 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before April 8, 2024, then starting April 9, 2024, 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 April 9, 2024.

March 28, 2024

Date Issued

Justin Leung

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 October 9, 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 31, 2024

Rent Owing To March 31, 2024	\$11,520.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord 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 Landlord 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	\$11,706.00

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before April 8, 2024

Rent Owing To April 30, 2024	\$12,800.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord 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 Landlord 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	\$12,986.00

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

Rent Owing To Hearing Date	\$9,801.60
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord 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	- \$1,250.00
Less the amount of the interest on the last month's rent deposit	- \$55.84
Less the amount the Landlord 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 Landlord	\$8,681.76
Plus daily compensation owing for each day of occupation starting February 21, 2024	\$42.08 (per day)