



Order under Section 69 Residential Tenancies Act, 2006

Citation: MCM Fund II (39 Niagara), LP and MCM Fund II (39 Niagara) Multi-Residential Inc v Bukovsky, 2024 ONLTB 2847

Date: 2024-01-09

File Number: LTB-L-058924-23

In the matter of: 924, 39 NIAGARA ST
TORONTO ON M5V0T6

Between: MCM Fund II (39 Niagara) and LP and MCM Fund II (39 Niagara) Multi-Residential Inc Landlords

And

Guy Bukovsky Tenant

MCM Fund II (39 Niagara) and LP and MCM Fund II (39 Niagara) Multi-Residential Inc (the 'Landlords') applied for an order to terminate the tenancy and evict Guy Bukovsky (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on December 19, 2023.

The Landlords legal representative F. McGregor and the Tenant attended the hearing.

The parties before the Board consented to a standard order. I was satisfied that the parties were aware of the consequences of the joint submissions.

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 \$2,579.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$84.79. This amount is calculated as follows: \$2,579.00 x 12, divided by 365 days.
5. The Tenant has paid \$12,624.00 to the Landlords since the application was filed.
6. The rent arrears owing to December 31, 2023 are \$2,579.00.
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 \$2,579.00 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 \$62.36 is owing to the Tenant for the period from January 1, 2023 to December 19, 2023.
10. On consent of the parties, 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.

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:**
 - \$5,344.00 if the payment is made on or before January 19, 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 January 19, 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 January 19, 2024**
5. As of the date of the hearing, the amount of the rent deposit and interest the Landlords owes on the rent deposit exceeds the arrears of rent, compensation and the cost of filing the application the Landlords is entitled to by \$844.35. See Schedule 1 for the calculation of the amount owing. However, the Landlords is authorized to deduct from the amount owing to the Tenant \$84.79 per day for compensation for the use of the unit starting December 20, 2023 until the date the Tenant moves out of the unit.
6. The Landlords or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
7. If the unit is not vacated on or before January 19, 2024, then starting January 20, 2024, the Landlords may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
8. 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 January 20, 2024.

January 9, 2024
Date Issued

 Mayra Sawicki
 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 July 20, 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 19, 2024

Rent Owing To January 31, 2024	\$17,782.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlords since the application was filed	- \$12,624.00
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	\$5,344.00

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

Rent Owing To Hearing Date	\$14,235.01
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlords since the application was filed	- \$12,624.00
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	- \$2,579.00
Less the amount of the interest on the last month's rent deposit	- \$62.36
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	\$(844.35)
Plus daily compensation owing for each day of occupation starting December 20, 2023	\$84.79 (per day)

2024 ONL TB 2847 (CanLI)