



Order under Section 69 Residential Tenancies Act, 2006

Citation: Berardi v Leger, 2024 ONLTB 28168

Date: 2024-04-24

File Number: LTB-L-092175-23

In the matter of: Front Unit, 136 KING GEORGE RD
BRANTFORD ON N3R5K9

Between: Richard Berardi Landlord

And

Shawn Leger
Jaden Million Tenants

Richard Berardi (the 'Landlord') applied for an order to terminate the tenancy and evict Shawn Leger and Jaden Million (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on April 10, 2024.

The Landlord's Legal Representative, Jackie Struthers, 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 \$1,950.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$64.11. This amount is calculated as follows: \$1,950.00 x 12, divided by 365 days.
5. The Tenants have not made any payments since the application was filed.
6. The rent arrears owing to April 30, 2024 are \$15,600.00. The Tenants agreed with the amount of arrears.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. Accordingly, the total amount the Tenants owe the Landlord is \$15,786.00.

Section 83 Considerations

9. 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 grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.
10. The tenancy commenced on May 15, 2020.
11. The Tenants sought to preserve the tenancy and proposed paying the Landlord the new rent as it comes due and \$1578.60 each month towards the arrears until the arrears are paid in full.
12. The Tenants testified that their son had a work-related accident in August 2023 and Shawn Leger ("SL") lost his job. From September 2023 to April 2024, SL worked as a apprentice with unstable hours and lower pay. As of April 2, 2024, SL has returned to full-time work and earns \$44.97 per hour.
13. Jaden Million ("JM") was a stay-at-home mom and despite her efforts, she was not able to secure employment until February 18, 2024.
14. The Tenants testified that their son has since recovered and started working again and would contribute \$800.00 to the household income.
15. The Tenants testified that they have consistently received \$1,975.00 a month for child tax benefits but have struggled since September 2023 to make ends meet.
16. The Tenants testified that they have three other children who attends school in the area. One child has mental health issues.
17. The Landlord's Representative sought a standard order and submitted that the Tenants have made no good faith payments and the Landlord has no confidence the Tenants will follow through with their proposed payment plan.
18. Given the circumstances, I find the prejudice to the Tenants in terminating the tenancy outweighs the prejudice to the Landlord in continuing the tenancy. This is the first application the Landlord has filed for this tenancy. Based on the evidence before the Board, I do find that the Tenants' current household income would be sufficient to cover their expenses and meet the proposed payment plan. Prejudice to the Landlord is alleviated through the Landlord's ability to apply to terminate the tenancy under section 78 of the Act if the order is breached.
19. The Divisional Court has found that eviction should be ordered as a remedy of last resort, only ordered where it is not possible to bring a tenancy back into good standing. [*Britannia Glen Co-operative Homes v. Singh*, cited in *Toronto Community Housing Corp. v. Thompson*, [2003] O.R.H.T.D. No. 145, *James Aylmer Langford v. Lesley Phipps and Larry Gilpin*, [1992] O.J. No. 4184 (Ont. Gen. Div.)] In this case, I am of the view the Tenants should be given an opportunity to preserve the tenancy, provided the Tenants meet the conditions set out below.

It is ordered that:

1. The Tenants shall pay to the Landlord \$15,786.00 for arrears of rent up to April 30, 2024 and costs.

2. The Tenants shall pay to the Landlord the amount set out in paragraph 1 in accordance with the following schedule:
 - a) \$1,578.60 on or before May 1, 2024
 - b) \$1,578.60 on or before June 1, 2024
 - c) \$1,578.60 on or before July 1, 2024
 - d) \$1,578.60 on or before August 1, 2024
 - e) \$1,578.60 on or before September 1, 2024
 - f) \$1,578.60 on or before October 1, 2024
 - g) \$1,578.60 on or before November 1, 2024
 - h) \$1,578.60 on or before December 1, 2024
 - i) \$1,578.60 on or before January 1, 2025
 - j) \$1,578.60 on or before February 1, 2025
3. The Tenants shall also pay to the Landlord new rent on time and in full as it comes due and owing for the period from May 1, 2024 to February 1, 2025, or until the arrears are paid in full, whichever date is earliest.
4. If the Tenants fail to make any one of the payments in accordance with this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenants to the Landlord pursuant to paragraph 1 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenants, apply to the LTB within 30 days of the Tenants' breach pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenants and requiring that the Tenants pay any new arrears, NSF fees and related charges that became owing after April 30, 2024.

April 24, 2024
Date Issued

Vicky Liu
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.