



Order under Section 69 Residential Tenancies Act, 2006

Citation: Claridge Homes (Rockcliffe Mews) LP v Gbaguidi, 2024 ONLTB 4089

Date: 2024-01-23

File Number: LTB-L-043154-23

In the matter of: 803, 840 MONTREAL RD OTTAWA
ON K1K4W3

Between: Claridge Homes (Rockcliffe Mews) LP Landlord

And

Varina Gbaguidi Tenant

Claridge Homes (Rockcliffe Mews) LP (the 'Landlord') applied for an order to terminate the tenancy and evict Varina Gbaguidi (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 4, 2024.

The Landlord's Legal Representative D. Lyman and the Tenant attended the hearing. The Tenant met with Tenant Duty Counsel before the hearing.

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.
3. The lawful rent is \$1,460.62. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$48.02. This amount is calculated as follows: \$1,460.62 x 12, divided by 365 days.
5. The Tenant has paid \$6,321.00 to the Landlord since the application was filed.

6. The rent arrears owing to January 31, 2024 are \$10,216.79.
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 \$1,425.00 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 \$55.63 is owing to the Tenant for the period from June 14, 2022 to January 4, 2024.
10. The Tenant wanted to raise maintenance issues at the hearing, but no disclosure of the issues or evidence was made at least seven days before the hearing as per section 82(2) of the Act and rule 19.4 of the LTB's *Rules of Procedure*. The Tenant failed to provide a reasonable explanation as to why the Tenant could not have met these disclosure requirements. Therefore, I denied the Tenant's request to pursue. She was advised she could bring her own application before the Board if she chooses and is not out of time to do so.

Section 83 considerations

11. 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 28, 2024 pursuant to subsection 83(1)(b) of the Act.
12. The Landlord's Legal Representative stated that the Landlord has reached out to the Tenant, but she said that she is not interested in a payment plan. He has also reached out to her. The payments received by the Landlord are the direct payments received from a third party and the Tenant has not paid her share since August 2022.
13. The Tenant testified that she is autistic and suffers from PTSD and anxiety disorder. She moved into the rental unit on June 13, 2022. The Landlord gave her June 2022 rent free and asked for payment of first and last months' rent. The Tenant was never made clear even after repeated attempts if the Landlord had applied July 2022 rent to July 2022. She talked about differential treatment by the Landlord towards her. She also talked about her losing her job and going back on ODSP and the ant infestation in the house. She stated that all her requests to speak to the Landlord have been ignored. The Tenant also testified that she stopped the direct payments being made to the Landlord since she was not being heard and there are so many maintenance issues. She stated that she will not be making the rent arrears payment to the Landlord.
14. The N4 served on the Tenant shows that the rent arrears are claimed from August 1, 2022 which was explained to the Tenant at the hearing. The Tenant stated that she had not left the rental unit with the expectation that the Board will hear her side and will grant her remedies. Since no disclosure was made, I advised the Tenant that she could still bring her own application and claim her remedies. The Tenant then requested the Board to grant her

additional time to move out and that she has already started looking at other rental units with the help of CMHA. She also testified to the hardships she may face if she is rendered homeless, as a person with disabilities.

15. Subsection 2(1) of the Human Rights Code provides that everyone has the right to equal treatment with respect to housing, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed (religion), sex (including pregnancy, gender identity), sexual orientation, age, marital status, family status, disability, or the receipt of public assistance. "Disability" is defined by subsection 10(1) to include both physical conditions and mental disorders.
16. In the above case I find that the Landlord has not accommodated the Tenant's needs to the point of undue hardship. The Landlord has been aware of the Tenant's needs from the day she moved in. The Landlord has repeatedly ignored the Tenant's requests about clarity of the rent deposit and other maintenance issues like ants and has not done enough to accommodate the Tenant to the level of undue hardship. I shall consider the Tenant's disability while considering her request for additional time because the Tenant testified that she is actively looking at other places with the help of CMHA. I am unable to grant any remedies to the Tenant, but I am considering denying or delaying the eviction to accommodate the Tenant's needs.
17. Based on the testimony of the Tenant, that she would like to move out of the rental unit I find delaying the eviction to grant the Tenant additional time to find a more suitable rental unit would be appropriate. Therefore, the eviction date is delayed to February 28, 2024

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:**
 - \$10,402.79 if the payment is made on or before January 31, 2024. See Schedule 1 for the calculation of the amount owing.

OR

 - \$11,863.41 if the payment is made on or before February 28, 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 28, 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 28, 2024.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$7,653.62. 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 \$48.02 per day for the use of the unit starting January 5, 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 February 28, 2024, the Tenant will start to owe interest. This will be simple interest calculated from March 1, 2024 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before February 28, 2024, then starting March 1, 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 March 1, 2024.

January 23, 2024

Date Issued

Sheena Brar

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 August 19, 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	\$16,537.79
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$6,321.00
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	\$10,402.79

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	\$17,998.41
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$6,321.00
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	\$11,863.41

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

Rent Owing To Hearing Date	\$15,269.25
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$6,321.00
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	- \$1,425.00
Less the amount of the interest on the last month's rent deposit	- \$55.63

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	\$7,653.62
Plus daily compensation owing for each day of occupation starting January 5, 2024	\$48.02 (per day)