



Order under Section 69 Residential Tenancies Act, 2006

Citation: 1030553 Ontario Limited v Sperduti, 2024 ONLTB 62429

Date: 2024-08-23

File Number: LTB-L-006459-24

In the matter of: 313, 33 HOLLY ST
TORONTO ON M4S2G8

Between: 1030553 Ontario Limited Landlord

And

Diana Sophia Sperduti Tenant

1030553 Ontario Limited (the 'Landlord') applied for an order to terminate the tenancy and evict Diana Sophia Sperduti (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on August 15, 2024.

The Landlord's Legal Representative Howard Levenson and the Tenant attended the hearing.

Determinations:

Preliminary Issue

1. At the hearing, the Tenant requested an adjournment on the basis she had been unable to prepare for the hearing because she has been ill undergoing chemotherapy. This file was previously before the Board on May 27, 2024 and the file was adjourned on that date because of the same circumstances. The adjourned hearing on August 15, 2024 was peremptory on the Tenant to proceed.
2. The Landlord was opposed to the Tenant's adjournment request on the basis that the file was peremptory on the Tenant and that the Tenant had not complied with the interim order issued by the Board requiring on time rent payments until the file returned before the Board. The Landlord also cited the Tenant's reason for adjourning was the same as it had been on the previous hearing date of May 27, 2024. Lastly, the Landlord submitted the Tenant had more than two months from the previous hearing date to prepare and submit evidence.
3. While I can appreciate the Tenant circumstances, I find the time between the May 27, 2024 and the August 15, 2024 adjourned hearing date was sufficient

time to prepare. The Tenant did not provide any reasonable explanation as to how her treatment prevented her from preparing for the hearing in the time she had, both before the original hearing date and after the file was adjourned. The file was peremptory on the Tenant and I did not find the adjournment request was reasonable and as such I denied the request and the hearing proceeded.

L1 Application

4. The Landlord served the Tenant with a valid Notice to End Tenancy Early for Non-payment of Rent (N4). The Tenant did not void the notice by paying the amount of rent arrears owing by the termination date in the notice or before the day the application was filed.
5. As of the hearing date, the Tenant was still in possession of the rental unit.
6. The lawful rent was \$1,344.63 and it increased to \$1,378.24 on August 1, 2024. It is due on the 1st day of each month.
7. The Tenant has paid \$2,657.47 to the Landlord since the application was filed.
8. The rent arrears owing to August 31, 2024 are \$8,133.18. This amount was not disputed by the Tenant.
9. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
10. Accordingly, the total amount the Tenant owes the Landlord is \$8,319.18.
11. The Landlord is holding a rent deposit in the amount of \$1,344.63.
12. The Landlord sought termination of the tenancy within 11 days of this order citing the accumulating rent arrears and the Tenant's inability to comply with the interim order requiring on time and in full payment of the monthly rent.
13. The Tenant testified that she does not dispute the amount owing to the Landlord. She was initially confused because she believed the rent deposit would be deducted from the rent arrears owing. I explained to the Tenant that the rent deposit is applied to the last month of the tenancy, and if the tenancy continues, the Landlord continues to hold the deposit.
14. The Tenant lives in the rental unit with her 31-year-old daughter. The Tenant's evidence was she is being treated for breast cancer and has had several medical appointments to attend to. She is currently unemployed as a result of her illness is currently undergoing chemotherapy treatment. This treatment is due to conclude in September 2024, at which point it will be determined if she requires radiation therapy before undergoing reconstruction surgery. She is hopeful that she will not require further treatment once her current regimen of chemotherapy ends.
15. The Tenant proposed resolving the rent arrears with an immediate payment of \$2,773.06 and additional payments over the course of approximately five months

time. She also stated she would pay the monthly rent on time going forward. The Tenant testified she would fund these payments by using her personal savings as well as assistance from her family until she can return to work.

16. 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. I find the Tenant has a reasonable prospect of paying the amount outstanding within a reasonable period of time. Since termination is a remedy of last resort, I also find the Tenant should be given an opportunity to maintain her tenancy while undergoing treatment for breast cancer. For these reasons, at the hearing, I ordered the following:

It is ordered that:

1. As ordered at the hearing, the Tenant shall pay to the Landlord \$8,319.18 for arrears of rent up to August 31, 2024 and costs.
2. As ordered at the hearing, the Tenant shall pay to the Landlord the amount set out in paragraph 1 in accordance with the following schedule:
 - a) \$2,773.06 on or before August 20, 2024.
 - b) \$1,109.22 on September 15, 2024.
 - c) \$1,109.22 on October 15, 2024.
 - d) \$1,109.22 on November 15, 2024.
 - e) \$1,109.22 on December 15, 2024.
 - f) \$1,109.24 on January 15, 2025.
3. As ordered at the hearing, the Tenant shall also pay to the Landlord new rent on time and in full as it comes due and owing for the period September 1, 2024 to January 1, 2025, or until the arrears are paid in full, whichever date is earliest.
4. As explained at the hearing, if the Tenant fails 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 Tenant to the Landlord pursuant to paragraph 1 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenant, apply to the LTB within 30 days of the Tenant's breach pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenant and requiring that the Tenant pay any new arrears, NSF fees and related charges that became owing after August 31, 2024.

August 23, 2024
Date Issued

John Cashmore
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.