



Order under Section 69 Residential Tenancies Act, 2006

Citation: Housing York Inc. v Stranieri, 2024 ONLTB 61348

Date: 2024-08-20

File Number: LTB-L-032323-24

In the matter of: 325, 275 WOODBRIDGE AVE
WOODBRIDGE ON L4L2T1

Between: Housing York Inc. Landlord

And

Benjamino Stranieri Tenant

Housing York Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Benjamino Stranieri (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on August 12, 2024.

Only the Landlord's Agent, Janice Duly, attended the hearing.

As of 11:22 a.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

Preliminary Issue

1. At the hearing, I raised a preliminary issue regarding the Landlord's application. The N4 Notice served on the Tenant included the unpaid rent for period of November 1, 2023 to February 29, 2024 however the Landlord's L1 application indicates only the unpaid rent for the period of March 1, 2024 to March 31, 2024.
2. The Landlord's agent submitted that her understanding was that the L1 application was meant to include only the unpaid rent for the month in which the application was filed, a practice she had followed for the past seven years. She was informed that the L1 application should actually encompass all months of unpaid rent up to the end of the rental period for the month in which the application is submitted.
3. Given that the N4 notice of termination ('N4 Notice') clearly set out the rent arrears owing for the period of November 1, 2023 to February 29, 2024 and the L1 application included the period of March 1, 2024 to March 31, 2024, I find that it would not be procedurally unfair to the Tenant to amend the Landlord's application on the Board's own motion in accordance with subsection 201(1) of the *Residential Tenancies Act, 2006* (the 'Act'). I am satisfied that as the Tenant has made no payments to the Landlord since the N4 Notice

was served and is aware of the Landlord's claim of the outstanding rent arrears well in advance of the hearing date.

L1 Application

4. The Landlord served the Tenant with a valid 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.
5. As of the hearing date, the Tenant was still in possession of the rental unit.
6. The lawful rent is \$619.00. It is due on the 1st day of each month.
7. Based on the Monthly rent, the daily rent/compensation is \$20.35. This amount is calculated as follows: \$619.00 x 12, divided by 365 days.
8. The Tenant has not made any payments since the application was filed.
9. The rent arrears owing to August 31, 2024 are \$6,190.00.
10. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
11. There is no last month's rent deposit.
12. The Landlord's agent submitted that the Landlord is unaware of any circumstances of the Tenant that would cause the termination of the tenancy to be delayed or denied however she submitted the Landlord is working with the Tenant to assist him in preserving his tenancy. Since the Tenant did not attend the hearing to give evidence of their circumstances, I am unable to determine if any relief from eviction should be considered.
13. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act, including whether the Landlord 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 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:**
 - \$6,190.00 if the payment is made on or before August 31, 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 August 31, 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 August 31, 2024**

5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$6,001.20. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$20.35 per day for the use of the unit starting August 13, 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 August 31, 2024, the Tenant will start to owe interest. This will be simple interest calculated from September 1, 2024 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before August 31, 2024, then starting September 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 September 1, 2024.

August 20, 2024
Date Issued

Susan Priest
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 March 1, 2025 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 August 31, 2024

Rent Owing To August 31, 2024	\$6,190.00
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	\$6,376.00

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

Rent Owing To Hearing Date	\$5,815.20
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	- \$0.00
Less the amount of the interest on the last month's rent deposit	- \$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 amount owing to the Landlord	\$6,001.20
Plus daily compensation owing for each day of occupation starting August 13, 2024	\$20.35 (per day)