



Order under Section 69 Residential Tenancies Act, 2006

Citation: Toronto Community Housing Corp. v Mohamed, 2024 ONLTB 26647

Date: 2024-04-16 **File**

Number: LTB-L-074614-23

In the matter of: 4-100 Parma Crt.
Toronto, ON M4A1A5

Between: Toronto Community Housing Corp. Landlord

And

Abdi Mohamed Tenant
Husna Mohamed

Toronto Community Housing Corp. (the 'Landlord') applied for an order to terminate the tenancy and evict Abdi Mohamed and Husna Mohamed (collectively the 'Tenant') because the Tenant did not pay the rent owed.

This application was heard by videoconference on March 19, 2024.

Only the Landlord's agent, Dale Maingot attended the hearing.

As of 2:19 p.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:

1. The Landlord served the Tenant with a valid Notice to End Tenancy Early for Nonpayment 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 \$1,662.00, due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$54.64. This amount is calculated as follows: \$1,662.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to March 31, 2024, are \$48,020.00.
7. The amount of arrears exceeds the \$35,000.00 monetary jurisdiction of the Board as set out in section 207 of the *Residential Tenancies Act, 2006* ("the Act").
8. Proceeding with an application with the Board extinguishes any rights the Landlord may have to pursue the full amount owing at the Superior Court. The Landlord was made aware of the Board's monetary jurisdiction and chose to proceed with this application.
9. While the Board cannot order a person to pay more than \$35,000.00 in accordance with s. 207(1) of the Act, this does not apply to the "stay and pay" option set out in paragraph 2 the order below. In *Galaxy Real Estate Core Ontario LP v. Kirpichova et al.*, 2023 ONSC 4356, the Divisional Court confirmed that the Board's monetary jurisdiction does not apply to the amount the Tenant must pay if they choose to void the order and continue the tenancy in accordance with section 74(4) of the Act. Therefore, the Tenants must pay the full arrears owing, plus the Landlords' costs, if they want to void the order and continue this tenancy.
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. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including efforts made by the Landlord to make payment arrangements 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:**
 - \$49,868.00 if the payment is made on or before April 27, 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 April 27, 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 April 27, 2024.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlords \$35,000.00, which represents the amount of rent owing, the application filing fee, less the rent deposit and interest on the rent deposit, up to March 14, 2024. While the total arrears owing by the Tenant exceeds \$35,000.00, the Board's maximum monetary jurisdiction is \$35,000.00. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$54.64 per day for the use of the unit starting March 20, 2024, until the date the Tenant moves out of the unit.
7. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
8. If the Tenant does not pay the Landlord the \$35,186.00 owing on or before April 27, 2024, the Tenant will start to owe interest. This will be simple interest calculated from April 28, 2024, at 7.00% annually on the balance outstanding.
9. If the unit is not vacated on or before April 27, 2024, then starting April 28, 2024, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
10. 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 April 28, 2024.

April 16, 2024

Date Issued

Ken Audziss

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 October 28, 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.

When the capitalized word “Tenant” is used in this order, it refers to all persons identified as a Tenant at the top of the order.

**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 April 27, 2024

Rent Owing to April 30, 2024	\$49,682.00
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	\$49,868.00

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

Rent Owing to Hearing Date	\$47,396.16
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	\$47,582.16

Maximum allowable by the Board under section 207 of the Residential Tenancies Act, 2006:	\$35,186.00
Plus, daily compensation owing for each day of occupation starting March 20, 2024	\$54.64 (per day)