



**Order under Section 69 / 87
Residential Tenancies Act, 2006**

Citation: Agarwal v Collins, 2024 ONLTB 23134

Date: 2024-03-28

File Number: LTB-L-083367-23

In the matter of: 108 LANE ST
ESSEX ON N8M0B2

Between: Rishabh Agarwal Landlord

And

Caden Christopher Collins Tenant

Rishabh Agarwal (the 'Landlord') applied for an order to terminate the tenancy and evict Caden Christopher Collins (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on March 6, 2024.

The Landlord and the Tenant attended the hearing.

Preliminary Issues:

1. The Landlord served the Tenant with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). For the following reasons, I find that the Tenant voided the N4 Notice.
2. Section 59(3) of the *Residential Tenancies Act (2006)* (the 'Act') states:

The notice of termination is void if, before the day the landlord applies to the Board for an order terminating the tenancy and evicting the tenant based on the notice, the tenant pays,

- (a) the rent that is in arrears under the tenancy agreement; and
- (b) the additional rent that would have been due under the tenancy agreement as at the date of payment by the tenant had notice of termination not been given.

3. The N4 Notice was served to the Tenant on September 25, 2023, with a termination date of October 11, 2023. The amount of rent arrears claimed was \$2,450.00. At the hearing, the Landlord confirmed that the Tenant paid the full amount owing on September 29, 2023. The Landlord submitted that, since the termination date was October 11, 2023, the Tenant ought to have paid October rent in order to void the N4 Notice as well and since the Tenant did not pay October rent by the termination date, the N4 Notice was not voided.

File Number: LTB-L-083367-23

4. Pursuant to section 59(3)(b), a tenant is only required to pay additional rent that comes due if it comes due on or before the date of the tenant's payment. In the matter before me, rent is due on the 1st day of each month and the Tenant paid the arrears in full on September 29, 2023. On the date of the Tenant's payment, the October rent had not yet become due. Therefore, the Tenant was not required to pay the October rent in order to void the notice.
5. I find that the Tenant voided the N4 Notice. Therefore, the eviction portion of this application cannot proceed. The Landlord requested to proceed on the application under section 87 of the Act for payment of arrears only.

Determinations:

1. As of the hearing date, the Tenant was still in possession of the rental unit.
2. The lawful rent is \$2,450.00. It is due on the 1st day of each month.
3. Based on the Monthly rent, the daily rent/compensation is \$80.55. This amount is calculated as follows: $\$2,450.00 \times 12$, divided by 365 days.
4. The Tenant has paid \$12,059.00 to the Landlord since the application was filed.
5. The rent arrears owing to March 31, 2024 are \$2,641.00.
6. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
7. The Tenant requested a payment plan to repay the arrears. According to the Tenant, he fell behind on the rent due to a problem with a project in 2023 but is now employed fulltime and intends to repay the Landlord. The Landlord opposed the payment plan and testified that he is in debt because of the arrears.
8. After reviewing the information provided by the Tenant regarding his income and expenses, I find that the Tenant has sufficient income to repay the Landlord. Given the Landlord's financial difficulties, I find a lump sum payment to be appropriate. However, given the

amount of the arrears, I find it would not be unfair to grant a short delay in the payment due date.

It is ordered that:

1. The Tenant shall pay to the Landlord \$2,827.00 on or before April 20, 2024. This amount includes rent arrears owing up to March 31, 2024, and the cost of filing the application.
2. If the Tenant does not pay the Landlord the full amount owing on or before April 20, 2024, the Tenant will start to owe interest. This will be simple interest calculated from April 21, 2024 at 7.00% annually on the balance outstanding.

File Number: LTB-L-083367-23

March 28, 2024

Date Issued

15 Grosvenor Street, Ground Floor Toronto
ON M7A 2G6

Kate Sinipostolova
Member, Landlord and Tenant Board

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