



Order under Section 69 Residential Tenancies Act, 2006

Citation: Wang v Prince, 2024 ONLTB 19295

Date: 2024-03-18

File Number: LTB-L-004792-24

In the matter of: 1, 265 APACHE TRAIL
NORTH YORK ON M2H2W3

Between: Yan Wang Landlord

And

Michael Anthony Prince Tenant

Yan Wang (the 'Landlord') applied for an order to terminate the tenancy and evict Michael Anthony Prince (the 'Tenant') because:

- the Tenant did not pay the rent that the Tenant owes (L1 Application).
- the Tenant has been persistently late in paying the Tenant's rent (L2 Application).

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

Only the Landlord's Legal Representative, Julie Zhu and the Landlord attended the hearing. An interpreter for the Landlord. Meng Luo also attended the hearing.

As of 4:12 pm, 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.

Preliminary Issue- L2 Application:

N8 lacks sufficient details.

1. The L2 application is based on a N8 notice given to the Tenant on January 17, 2024, alleging the Tenant has been persistently late with paying rent. The termination date in the N8 notice is March 31, 2024.
2. I find that the N8 notice of termination is defective because it lacks sufficient detail.
3. The details on the N8 notice of termination read as follows:
 - a) I have sent you several reminders that you should pay your rent on the 1st of each month, you didn't do it on time.
 - b) On October 28, 2023, I sent you a notice to ask you to pay \$880.00 for rent owed by November 12, you still have not paid the rent on time.

- c) On December 31, 2023, I also notified you that you owe \$1,760.00 for rent, you did not have any response.
 - d) On January 2, 2024, I sent you another notice, asking you to pay the rent of \$2,640.00 owed on January 16, 2024, you did not have any response.
 - e) Please now move out of the residence within the date specified in the notice.
4. Pursuant to subsection 43(2) of the *Residential Tenancies Act, 2006* (Act), where a landlord gives a tenant a notice of termination “it shall also set out the reasons and details respecting the termination...”
 5. A landlord’s obligation to include “reasons and details” in a notice of termination was considered by the Divisional Court in *Ball vs Metro Capital Property*, [2002] O.J. No. 5931 (Div. Ct.). MacDougall J. wrote in *Ball* that, “Particulars should include, dates and times of the alleged offensive conduct together with a detailed description of the alleged conduct...” The Court went on to state that the various purposes for requiring a party to provide reasons and details include the responding party’s need “to know the specific allegations made so that she/he can be in a position to know the case that must be met; to decide whether to dispute the allegations made before the Tribunal; and to consider whether to stop the conduct or activity or correct the omission...”
 6. Although *Ball* concerned an N5 notice of termination and in this case the Landlord served an N8 notice, the reasoning in *Ball* applies to all cases in which a landlord serves a notice of termination which requires reasons and details.
 7. I am not satisfied that the N8 notice of termination provides sufficient dates that rent was paid late to allow the Tenants to come prepared to the hearing to properly speak to the application. The reasons on the N8 are confusing and refer to rent being owed on November 12, 2023, December 31, 2023, and January 2, 2024. Rent is due on the 1st of the month. The N8 doesn’t specify what months the Tenant was persistently late paying the rent.
 8. The N8 notice is defective because it does not comply with subsection 43(2) of the Act. The Board cannot issue an eviction order without a valid notice of termination.

Determinations:

9. 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.
10. As of the hearing date, the Tenant was still in possession of the rental unit.
11. The lawful rent is \$902.00. It is due on the 1st day of each month.

12. Based on the Monthly rent, the daily rent/compensation is \$29.65. This amount is calculated as follows: \$902.00 x 12, divided by 365 days.
13. The Tenant has not made any payments since the application was filed.
14. The rent arrears owing to March 31, 2024 are \$4,444.00.
15. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
16. The Landlord collected a rent deposit of \$880.00 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.
17. Interest on the rent deposit, in the amount of \$45.34 is owing to the Tenant for the period from August 8, 2021 to March 6, 2024.
18. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenant. The Landlord tried to negotiate a payment plan with the Tenant prior to filing this application, however, was unsuccessful. The Landlord's Legal Representative also reached out to the Tenant to discuss a payment plan and sent a copy of the L1 L9 update sheet to the Tenant. The Tenant was unresponsive.
19. The Landlord's Legal Representative was not aware of any circumstances of the Tenant relevant to section 83. The Tenant was not present at the hearing to provide any evidence of such circumstances, and there is otherwise no evidence in the record before me that suggests eviction should be refused or delayed. I 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 Landlord's L2 application is dismissed.
2. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
3. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**

\$4,630.00 if the payment is made on or before March 29, 2024. See Schedule 1 for the calculation of the amount owing.
4. 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 March 29, 2024 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
5. **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 March 29, 2024**

6. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$2,980.56. 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.
7. The Tenant shall also pay the Landlord compensation of \$29.65 per day for the use of the unit starting March 7, 2024 until the date the Tenant moves out of the unit.
8. If the Tenant does not pay the Landlord the full amount owing on or before March 29, 2024, the Tenant will start to owe interest. This will be simple interest calculated from March 30, 2024 at 7.00% annually on the balance outstanding.
9. If the unit is not vacated on or before March 29, 2024, then starting March 30, 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 March 30, 2024.

March 18, 2024
Date Issued

Trish Carson
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 September 30, 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 March 29, 2024

Rent Owing To March 31, 2024	\$4,444.00
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	\$4,630.00

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

Rent Owing To Hearing Date	\$3,719.90
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	- \$880.00
Less the amount of the interest on the last month's rent deposit	- \$45.34
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	\$2,980.56
Plus daily compensation owing for each day of occupation starting March 7, 2024	\$29.65 (per day)