



Order under Section 69 Residential Tenancies Act, 2006

Citation: 1212763 ONTARIO LTD. v Sampaio, 2024 ONLTB 10953

Date: 2024-02-13

File Number: LTB-L-046423-23

In the matter of: 1606, 200 EXBURY RD TORONTO
ON M3M1A7

Between: 1212763 ONTARIO LTD. Landlord

And

Sozinho Paulo Sampaio Tenant

1212763 ONTARIO LTD. (the 'Landlord') applied for an order to terminate the tenancy and evict Sozinho Paulo Sampaio (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 31, 2024.

The Landlord's Legal Representative, Sharon Harris, and the Tenant attended the hearing.

Determinations:

1. 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.
2. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$2,237.43. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$73.56. This amount is calculated as follows: $\$2,237.43 \times 12$, divided by 365 days.
5. The Tenant has paid \$14,124.00 to the Landlord since the application was filed.
6. The rent arrears owing to January 31, 2024 are \$4,485.55. The arrears are not in dispute.

7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$2,182.92 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.
9. Interest on the rent deposit, in the amount of \$59.21 is owing to the Tenant for the period from January 1, 2023 to January 31, 2024.

Relief from eviction

10. 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 postpone the eviction until March 31, 2024 pursuant to subsection 83(1)(b) of the Act.
11. The position of the Landlord is the tenancy should be terminated as it is not feasible for the Tenant to pay the arrears and new rent due.
12. The position of the Tenant is he can pay the arrears, but he needs until end of April when he goes back to work and gets his tax return.
13. The Tenant's current income is EI. The Tenant's total income each month is approximately \$2,500.00 and his expenses are approximately \$4,400.00 inclusive of his rent. This means the Tenant is in a deficit each month of approximately \$1,900.00. The Tenant provided financial disclosure for the Board's consideration and did not dispute that his income does not support his expenses.
14. The Tenant testified he cannot afford his rent right now, or to pay back the arrears. The Tenant is a construction worker and has been laid off since November 2023. The Tenant is hoping to return to work in April 2024 and intends to file his taxes in March. The Tenant testified if he does go back to work, he would be making approximately \$1,000.00 per week.
15. At the time of the hearing, the Tenant did not provide any documentary evidence to support his claim of returning to work in April nor how much of a tax return he is expecting. Therefore, I find the Tenant's request to preserve the tenancy and pay off all arrears and any new rent due by end of April to be unrealistic.
16. The Tenant could not estimate how long he would need to find alternative housing if the tenancy were terminated.
17. The Landlord is holding a last month's rent deposit and can apply this amount to the last month of tenancy.
18. The Tenant has been making installment payments of \$1,000.00 in good faith bi-weekly as he receives his EI, however it is not enough to cover even the monthly rent.

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:**
 - \$6,908.98 if the payment is made on or before February 29, 2024. See Schedule 1 for the calculation of the amount owing.

OR

- \$9,146.41 if the payment is made on or before March 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 March 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 March 31, 2024**
 5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$2,429.42. 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.
 6. The Tenant shall also pay the Landlord compensation of \$73.56 per day for the use of the unit starting February 1, 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 February 24, 2024, the Tenant will start to owe interest. This will be simple interest calculated from February 25, 2024 at 7.00% annually on the balance outstanding.
 8. If the unit is not vacated on or before March 31, 2024, then starting April 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 April 1, 2024.

February 13, 2024

Date Issued

Elena Jacob

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 1, 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 February 29, 2024

Rent Owing To February 29, 2024	\$20,846.98
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$14,124.00
Total the Tenant must pay to continue the tenancy	\$6,908.98

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before March 31, 2024

Rent Owing To March 31, 2024	\$23,084.41
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$14,124.00
Total the Tenant must pay to continue the tenancy	\$9,146.41

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

Rent Owing To Hearing Date	\$18,609.55
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$14,124.00
Less the amount of the last month's rent deposit	- \$2,182.92
Less the amount of the interest on the last month's rent deposit	- \$59.21
Total amount owing to the Landlord	\$2,429.42
Plus daily compensation owing for each day of occupation starting February 1, 2024	\$73.56 (per day)

2024 ONLTB 10953 (CanLII)