



Order under Subsection 135 Residential Tenancies Act, 2006

Citation: Alston v Ciccarelli-Wills, 2024 ONLTB 6313

Date: 2024-01-22

File Number: LTB-T-036191-23

In the matter of: 1, 56 North Lake Road
Richmond Hill Ontario L4E0G5

Tenant

Between: Maria Alston

And

Joanne Ciccarelli-Wills

Landlord

Maria Alston (the 'Tenant') applied for an order determining that Joanne Ciccarelli-Wills (the 'Landlord') collected or retained money illegally.

This application was heard by videoconference on October 31, 2023.

The Tenant attended the hearing.

The Landlord also attended the hearing.

Determinations:

1. The Tenant filed a T1 application with the Board with allegations the Landlord owes the Tenant interest on the last month's rent deposit and the Landlord did not pay compensation owed the Tenant for an N12 notice served on the Tenant.
2. The following facts are not in dispute.
3. The Landlord collected a last month's rent deposit at the start of the tenancy.
4. The Landlord served an N12 notice on the Tenant with a termination date of June 30, 2022.

5. The Tenant vacated the rental unit on June 1, 2022.
6. The Tenant paid the Landlord rent for May 2022 and the Landlord returned the Tenant's last month's rent deposit.

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Dispute

7. The Tenant claims that the Landlord still owes the one month's compensation in accordance with the Act, however the Tenant concedes that she owes the Landlord one day of rent for June 1, 2022.
8. The Landlord maintains the N12 notice was meant to terminate the tenancy at the end of the term of the lease and testified she was unaware of her obligation to provide compensation to the Tenant due to serving the N12 notice.
9. The Landlord testified it was her realtor who advised her to end the tenancy with an N12 notice.
10. The Landlord's initial testimony was that she did not owe the Tenant the compensation, as she testified she returned the last month's rent deposit to the Tenant.
11. During the hearing I explained to the Tenant that returning the last month's rent deposit since the Tenant paid the rent for May 2022 does not meet the requirements for the compensation to be paid for serving an N12 notice on the Tenant.
12. The Landlord testified it was all a mistake and did not dispute the Tenant's allegations.
13. The Landlord requested to pay the Tenant back by offering \$100.00 per month.
14. The Tenant requested an 11 day order for the remedies in the application.

The Act and Analysis

15. Section 48(1) of the Act states:

Notice, landlord personally, etc., requires unit

48 (1) A landlord may, by notice, terminate a tenancy if the landlord in good faith requires possession of the rental unit for the purpose of residential occupation for a period of at least one year by,

(a) the landlord;...

16. Section 48.1 of the Act states:

Compensation, notice under section 48

48.1 A landlord shall compensate a tenant in an amount equal to one month's rent or offer the tenant another rental unit acceptable to the tenant if the landlord gives the tenant a notice of termination of the tenancy under section 48.

17. During the Landlord's testimony she claimed it was a mistake not to pay the Tenant the compensation.

18. With the evidence before me and on a balance of probabilities I find the Tenant has met the burden to support her claims in her application.

19. While I do not believe it to be intentional, I find the Landlord is in breach of her obligations under the Act and therefore the Tenant is entitled to the remedies she is seeking.

20. The Tenant's claim:

- Interest owed on the last month's rent deposit: \$64.50
- One month rent compensation: \$2,150.00
- Total \$2,214.50

21. Minus money owing to the Landlord:

- Daily compensation for June 1, 2022 ($\$2,150.00 \times 12$ divided by 365 = \$70.68) •
- Total owed to Landlord \$70.68

22. The total amount the Landlord owes the Tenant is \$ 2,143.82:

- \$2150.00 (N12 compensation) plus \$64.50 (last month's rent deposit interest) minus \$70.68 (June 1, 2022 daily compensation owed to Landlord)

23. I have considered all of the evidence presented at the hearing and all of the oral testimony and although I may not have referred to each piece of evidence individually or referenced all of the testimony, I have considered it when making my determinations.
24. This order contains all reasons for the determinations and order made. No further reasons will be issued.

It is ordered that:

1. The total amount the Landlord shall pay the Tenant is \$2,196.82. This amount represents:
 - o \$64.50 for interest on the last month's rent deposit. o \$2,079.32 for the compensation owing.
 - o \$53.00 for the cost of filing the application.
2. The Landlord shall pay the Tenant the full amount owing by February 2, 2024.
3. If the Landlord does not pay the Tenant the full amount owing by February 2, 2024, the Landlord will owe interest. This will be simple interest calculated from February 3, 2024 at 7.00% annually on the balance outstanding.

January 22, 2024

Date Issued

Greg Brocanier
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.

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