



Order under Section 69 Residential Tenancies Act, 2006

Citation: Williams and McDaniel Property Management v Drew, 2024 ONLTB 1

Date: 2024-01-02

File Number: LTB-L-023152-22

In the matter of: 304, 275 Albert Street East
Sault Ste. Marie ON P6A6N4

Between: Williams and McDaniel Property Management Landlord

And

Donna may Drew Tenant

Williams and McDaniel Property Management (the 'Landlord') applied for an order to terminate the tenancy and evict Donna may Drew (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on November 10, 2022.

The Landlord's representative John Andersen, the Tenant and Tenant's representative A.Baillargeon-Smith 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 \$1,209.34. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$39.76. This amount is calculated as follows: \$1,209.34 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 November 30, 2022 are \$3677.00.
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 \$1,195.00 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.

9. Interest on the rent deposit, in the amount of \$24.08 is owing to the Tenant for the period from March 8, 2021 to November 10, 2022.

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 grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act. The conditions provide the Tenant with the opportunity preserve her Tenancy with a viable plan to pay the arrears over an extended time, without causing undue prejudice to the Landlord.
11. The Tenant testified that she recently had become unemployed due to her recent onset of secondary progressive multiple sclerosis. As a result of the physical limitations from her illness, she was no longer able to perform the physical duties of her job lost her employment income.
12. The Tenant testified that she has been in the process of obtaining other income supports and services and will be receiving a housing stability benefit, guaranteed income support, and funds from her GST reimbursement. Based on her current income she has been making monthly payments to the Landlord of \$750.00 to demonstrate her good faith.
13. The Tenant proposed a sixteen-month repayment plan. The Landlord's representative indicated that the length of time for the repayment plan was too long and he asked that the payment plan be only 8 months in length.
14. The Tenant also testified that the rental unit that she was currently living in was not fully accessible and she was placed on a housing list for a rental unit that would accommodate her medical needs and at a reduced rent. This housing is issued based on availability and there is not a guarantee that this housing will be available in the near future.
15. The Landlord's representative provided Board decisions TSL-58204-14, TEL-12425-20, and HOL-08370-22 to argue that the Tenant should be denied a long repayment plan because the Landlord would be prejudiced. These cases are not binding on my decision.
16. The facts before me are different from those in the orders cited by the Landlord. The tenants in those matters did not demonstrate the same level of functional impairment and mobility limitations that this Tenant faces as a result of her illness. As well, the Tenant faces the added burden of organizing services which are often delayed because due to wait times of the providers.
17. The Tenant has demonstrated that she has a viable plan to repay the Landlord. And, while trying to arrange the monetary disability supports and having no employment income the Tenant continues to make good faith payments to the Landlord, as she has made over several months at \$750.00.
18. Although the Landlord argued that the 16-month repayment plan would prejudice the Landlord he did not provide any specific evidence that a repayment plan past a 12-month period would cause the Landlord undue hardship. The Landlord's suggested an 8-month plan would likely result in the Tenant being evicted.

19. In my opinion, denying the Tenant's requested payment plan would result in greater prejudice to the Tenant. Granting the 16-month plan helps to avoid adding hardship to this Tenant who faces difficult medical, financial and housing challenges as a result of her illness.

It is ordered that:

1. The Tenant shall pay to the Landlord \$3863.72 for arrears of rent up to November 10, 2023 and \$186.00 for the application filing fee costs.
2. \$3648.02 for the lawful rent from December 1, 2022 to February 28, 2023.
3. The Tenant shall pay to the Landlord the amount set out in paragraph 1 in accordance with the following schedule:
4. \$248.41 monthly on the 15th day of each month from February 15, 2023 to June 15, 2024.
5. \$3648.02 for the lawful rent from December 1, 2022 to February 28, 2023 within 90 days of receiving this order.
6. The Tenant shall also pay lawful monthly rent by the first day of each month for the period March 1, 2023 to June 15, 2024, or until the arrears are paid in full, whichever date is earliest.
7. If the Tenant fails to make any one of the payments in accordance with this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenant to the Landlord pursuant to paragraph 1 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenant, apply to the LTB within 30 days of the Tenant's breach pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenant and requiring that the Tenant pay any new arrears, NSF fees and related charges owing after November 10, 2022.

February 6, 2023
Date Issued

Maria Shaw
Member, Landlord and Tenant Board

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