



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

Citation: Soleimanipour v Warren, 2023 ONLTB 81606

Date: 2023-12-21

File Number:
LTB-L-047617-23

In the matter of: 279 IRONWOOD RD
GUELPH ON N1G3G2

Between: Mohsen Soleimanipour Landlord

And

Meghan Warren Tenants
Calvin Warren

Mohsen Soleimanipour (the 'Landlord') applied for an order to terminate the tenancy and evict Meghan Warren and Calvin Warren (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on October 31, 2023. The Landlord, the Landlord's legal representative, K. Sanaye, and the Tenants attended the hearing.

Determinations:

Preliminary Issue:

1. At the hearing the Tenants attempted to raise of number of concerns pursuant to section 82 of the *Residential Tenancies Act, 2006* (the Act):

82 (1) At a hearing of an application by a landlord under section 69 for an order terminating a tenancy and evicting a tenant based on a notice of termination under section 59, the Board shall permit the tenant to raise any issue that could be the subject of an application made by the tenant under this Act if the tenant,

- (a) complies with the requirements set out in subsection (2); or
- (b) provides an explanation satisfactory to the Board explaining why the tenant could not comply with the requirements set out in subsection (2)

(2) The requirements referred to in subsection (1) are the following:

- 1. The tenant shall give advance notice to the landlord of the tenant's intent to raise the issue at the hearing.
- 2. The notice shall be given within the time set out in the Rules.
- 3. The notice shall be given in writing and shall comply with the Rules.

2. In accordance with section 82(2) of the Act, the Board's Rules of Procedure provide as follows:

19.4. Unless the LTB has directed or ordered otherwise, a tenant who intends to raise issues under sections 82(1) or 87(2) of the RTA during a hearing for a landlord's application about rent arrears shall provide the other parties and the LTB with the following at least 7 days before the scheduled CMH or hearing:

- 1. a written description of each issue the tenant intends to raise; and
- 2. a copy of all documents, pictures and other evidence that the tenant intends to rely upon at the hearing.

3. The Tenants failed to comply with the notice / disclosure requirements of Rule 19.4. As of the date of the hearing, the Landlord was not served a list of issues to be raised or any evidence to support their section 82 concerns. Therefore, the Tenants are not entitled to raise section 82 issues and the matter proceeded to hear the Landlord's claim for nonpayment of rent only. The Tenants may wish to file their own application(s) to address their concerns.

L1 Application:

- 4. For the following reasons, the Landlord's N4 notice of termination is defective.
- 5. Section 59(2) of the *Residential Tenancies Act, 2006* (the 'Act') outlines that the notice of termination shall set out the amount of rent due and shall specify that the tenant may avoid the termination of the tenancy by paying, on or before the termination date specified in the notice, the rent due as set out in the notice and any additional rent that has come due under the tenancy agreement.

6. The first line of the N4 indicates that the rent charged for the month of March 2023, is \$5,000.00, however it is undisputed between the parties that the monthly rent is \$2,750.00. Therefore, I find that the Landlord's notice is defective.
7. As the Landlord's notice was invalid, I gave the Landlord the option to pursue an order for arrears only with no possibility of termination of the tenancy for this money. I explained to the Landlord that if I was to issue an order for the moneys claimed in this application and the arrears are not paid, the Landlord could not return to the Board for eviction based on those same arrears. The Landlord elected to proceed for an arrears only order.
8. As of the hearing date, the Tenant was still in possession of the rental unit.
9. The lawful rent is \$2,750.00. It is due on the 1st day of each month.
10. The Tenant has not made any payments since the application was filed.
11. The parties agree that the rent arrears owing to October 31, 2023 are \$20,500.00.
12. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

It is ordered that:

1. The Tenants shall pay to the Landlord \$20,686.00, which represents arrears and costs up to October 31, 2023.
2. If the Tenants do not pay the Landlord the full amount owing on or before January 1, 2024, the Tenant will start to owe interest. This will be simple interest calculated from January 2, 2024 at 7.00% annually on the balance outstanding.

December 21, 2023

Date Issued

Curtis Begg

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.