



Order under Section 69 Residential Tenancies Act, 2006

Citation: Yu v Scoggins, 2023 ONLTB 80676

Date: 2023-12-20

File Number: LTB-L-078186-22

In the matter of: Basement Room 2, 460 RANKIN AVE
Windsor ON N9B2R7

Between: Xiaowei Yu and Ju Li Landlords

And

Nathan Scoggins Tenant

Xiaowei Yu and Ju Li (the 'Landlords') applied for an order to terminate the tenancy and evict Nathan Scoggins (the 'Tenant') because:

- the Tenant did not pay the rent that the Tenant owes; and
- the Tenant has been persistently late in paying the Tenant's rent.

This application was heard by videoconference on November 20, 2023.

The Landlords' Legal Representative T. Currie and the Tenant attended the hearing. The Tenant declined the opportunity to speak with Duty Counsel prior to the hearing.

Preliminary Issue:

At the start of the hearing the Tenant requested an adjournment so he could prepare for the hearing. He testified that he was in touch with Legal Aid on November 9, 2023 that Legal Aid had agreed to assist him if he could secure an adjournment. The Landlords was opposed to an adjournment, given that the rent arrears have only grown and that the Tenant has done nothing to prepare for the hearing. I did not grant an adjournment. The Notice of Hearing was sent to the Tenant in June 2023 and had ample time to seek legal advice and prepare prior to the hearing.

Determinations:

L1 Application – Non-Payment of Rent

1. The Landlords 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 \$450.00. It is due on the 1st day of each month.

4. Based on the Monthly rent, the daily rent/compensation is \$14.79. This amount is calculated as follows: \$450.00 x 12, divided by 365 days.
5. The Tenant has paid \$2,650.00 to the Landlords since the application was filed.
6. The rent arrears owing to November 30, 2023 are \$3,200.00.
7. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. There is no last month's rent deposit.
9. The Tenant agreed that he owed the arrears of rent as stated by the Landlords.

L2 Application – Persistent Late Payment of Rent

9. The Tenant agreed that he paid his rent late as alleged by the Landlords.
10. On the unopposed evidence before me, I find that the Tenant has persistently failed to pay the rent on the date that it was due.
11. Since the N8 was served, the Tenant has paid rent late twice and has failed to pay rent in full for most months.

Relief from Eviction

12. 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 January 31, 2024 pursuant to subsection 83(1)(b) of the Act.
13. The Tenant testified that he did not pay his rent because of anger and resentment towards the Landlords related to issues within the rental unit and regarding the relationship between the Landlords and the Tenant.
14. The Tenant testified that he lives alone in the unit and has suffered from financial hardship. He testified that he has recently secured part-time employment. He has lived in the unit for 6 years.
15. The Tenant did not put forth a payment plan to pay off the arrears owed to the Landlords. When I asked him about his plan to pay off the arrears he testified that his plan was to not pay them off until the matter of compensation to him from the Landlords could be resolved. However, he did testify that he has recently secured employment and can resume paying future rent and asked for eviction to be denied on that basis.
16. In the alternative, the Tenant asked for the eviction to be delayed until June 1, 2024.
17. The Landlords sought a standard eviction order as the Tenant failed to put forth a viable payment plan to repay the arrears.
18. Without a firm payment plan in place, I am unable to order relief conditional on the repayment of the arrears owing. I do find, however, that it would be fair in the circumstances to delay the eviction until January 31, 2024 to allow the Tenant to secure new accommodations.

It is ordered that:L1 Application – Non-Payment of Rent

1. The tenancy between the Landlords 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 Landlords or to the LTB in trust:**
 - \$3,836.00 if the payment is made on or before December 31, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 - \$4,286.00 if the payment is made on or before January 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 January 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 January 31, 2024**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlords \$3,231.80. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlords compensation of \$14.79 per day for the use of the unit starting November 21, 2023 until the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlords the full amount owing on or before December 31, 2023, the Tenant will start to owe interest. This will be simple interest calculated from January 1, 2024 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before January 31, 2024, then starting February 1, 2024, the Landlords 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 Landlords on or after February 1, 2024.

L2 Application – Persistent Late Payment of Rent

10. If the Tenant voids the L1 portion of the order in accordance with paragraph two above, the tenancy shall continue on the following terms.
11. The Tenant shall pay the Landlords the monthly rent due on or before the first day of the month for the period of February 1, 2024 to January 32, 2025.

12. If the Tenant fails to make any of the payments in paragraph 11 above, the Landlords may apply under section 78 of the Act, within 30 days of the breach and without notice to the Tenant, for an order terminating the tenancy and evicting the Tenant.

December 20, 2023
Date Issued

Angela Long
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 July 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 December 31, 2023

Rent Owing To December 31, 2023	\$6,300.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlords since the application was filed	- \$2,650.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlords 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	\$3,836.00

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

Rent Owing To January 31, 2024	\$6,750.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlords since the application was filed	- \$2,650.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlords 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	\$4,286.00

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

Rent Owing To Hearing Date	\$5,695.80
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlords since the application was filed	- \$2,650.00
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	- \$0.00
Less the amount of the interest on the last month's rent deposit	- \$0.00
Less the amount the Landlords 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 Landlords	\$3,231.80
Plus daily compensation owing for each day of occupation starting November 21, 2023	\$14.79 (per day)