



Order under Section 69 Residential Tenancies Act, 2006

Citation: Broadstreet v Quesnelle, 2023 ONLTB 78940

Date: 2023-12-14

File Number: LTB-L-044268-23

In the matter of: APT 1, 519 YONGE STREET MIDLAND
ON L4R2C6

Between: Randy Broadstreet and Sherry Broadstreet Landlords

And

Reese Quesnelle and Sarah Contois Tenants

Randy and Sherry Broadstreet (the 'Landlords') applied for an order to terminate the tenancy and evict Reese Quesnelle and Sarah Contois (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on November 8, 2023.

The Landlords and the Tenants attended the hearing.

Determinations:

1. The Landlords served the Tenants with a valid Notice to End Tenancy Early for Nonpayment of Rent (N4 Notice). The Tenants 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 Tenants were still in possession of the rental unit.
3. The lawful rent is \$2,000.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$65.75. This amount is calculated as follows: \$2,000.00 x 12, divided by 365 days.
5. The Tenants have not made any payments since the application was filed.
6. The rent arrears owing to November 30, 2023 are \$14,000.00.
7. The Landlords incurred costs of \$186.00 for filing the application and are entitled to reimbursement of those costs.

8. The Landlords collected a rent deposit of \$2,000.00 from the Tenants and this deposit is still being held by the Landlords. 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 \$86.71 is owing to the Tenants for the period from February 14, 2022 to November 8, 2023.
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 January 31, 2024 pursuant to subsection 83(1)(b) of the Act.
11. The Tenants have not paid rent since May 2023 because of concerns they refer to as 'neglect'. No details of maintenance or tenant issues were filed prior to this hearing as is required if the Tenants wish to raise issues under section 82 of the Act. However, I am satisfied from the Tenants' oral evidence that the maintenance concerns do not rise to the level of a serious breach of maintenance obligations which would prevent me from ordering an eviction under s. 83(3).
12. Nothing in this order prevents the Tenants from filing their own tenant applications, subject to limitation periods contained in the Act.
13. Throughout the hearing the Tenants expressed that they were withholding the rent voluntarily; there are no financial difficulties or circumstances to be considered and the funds withheld should be available for repayment.
14. The Tenants wish to pay all or part of the arrears into the Board pending the outcome of their applications. The Tenants described out of pocket payments of approximately \$860 and damaged goods worth approximately \$500. The arrears at the time of the hearing were undisputed at \$14,000.00. I am not satisfied that there are special circumstances to justify ordering payment into the Board. The amount the Tenants have withheld far exceeds the amounts they are attempting to secure through payment into the Board. The Landlords submitted that payment into the Board does not provide the Landlords with the funds they require to meet the operating costs of the rental unit such as mortgage payments and utilities.

It is ordered that:

1. The tenancy between the Landlords and the Tenants is terminated unless the Tenants void this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlords or to the LTB in trust:**
 - \$16,186.00 if the payment is made on or before December 31, 2023. See Schedule 1 for the calculation of the amount owing.

OR

- \$18,186.00 if the payment is made on or before January 31, 2024. See Schedule 1 for the calculation of the amount owing.
3. The Tenants may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenants have 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 Tenants may only make this motion once during the tenancy.
 4. **If the Tenants do not pay the amount required to void this order the Tenants must move out of the rental unit on or before January 31, 2024**
 5. If the Tenants do not void the order, the Tenants shall pay to the Landlords \$10,625.29. 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 Landlords owe on the rent deposit are deducted from the amount owing by the Tenants. See Schedule 1 for the calculation of the amount owing.
 6. The Tenants shall also pay the Landlords compensation of \$65.75 per day for the use of the unit starting November 9, 2023 until the date the Tenants move out of the unit.
 7. If the Tenants do not pay the Landlords the full amount owing on or before December 25, 2023, the Tenants will start to owe interest. This will be simple interest calculated from December 26, 2023 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.

2023 ONL TB 78940 (CanLII)

December 14, 2023

Date Issued

Dawn Carr

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 August 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 Tenants 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	\$16,000.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Total the Tenants must pay to continue the tenancy	\$16,186.00

B. Amount the Tenants 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	\$18,000.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Total the Tenants must pay to continue the tenancy	\$18,186.00

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

Rent Owing To Hearing Date	\$12,526.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount of the last month's rent deposit	- \$2,000.00
Less the amount of the interest on the last month's rent deposit	- \$86.71
Total amount owing to the Landlords	\$10,625.29
Plus daily compensation owing for each day of occupation starting November 9, 2023	\$65.75 (per day)