



Order under Section 69 Residential Tenancies Act, 2006

Citation: Rodrigues v Leung, 2023 ONLTB 80016

Date: 2023-12-12

File Number: LTB-L-042124-22

In the matter of: Main Floor, 789 HILLCREST RD PICKERING
ON L1W2P5

Between: Christopher Rodrigues, Laveena Sethia, Landlords
Helen Bryan Rodrigues and Bryan John
Rodrigues

And

David Mah Leung Tenant

Christopher Rodrigues, Laveena Sethia, Helen Bryan Rodrigues and Bryan John Rodrigues (the 'Landlords') applied for an order to terminate the tenancy and evict David Mah Leung (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on November 21, 2023.

The Landlord's representative, Jordan Nieuwhoff, the Tenant and the Tenant's representative, Mitchell Kent attended the hearing.

Preliminary Issue:

1. The Tenant's representative submitted that the Landlord failed to provide the Tenant with a valid address as such, that pursuant to section 12 of the Act, the Tenant's obligation to pay rent was suspended as the Landlord had not provided their address as such the N4 is defective and the application should have not been filed.
2. Subsection 12(1) of the Act states:

12 (1) Every written tenancy agreement entered into on or after June 17, 1998 shall set out the legal name and address of the landlord to be used for the purpose of giving notices or other documents under this Act.

3. Subsection 12 (4) of the Act states:

(4) Until a landlord has complied with subsections (1) and (2), or with subsection (3), as the case may be,

(a) the tenant's obligation to pay rent is suspended; and

File Number: LTB-L-042124-22

(b) the landlord shall not require the tenant to pay rent.

4. In this case, the Tenant requested the Landlord's address in May 2022 and asserts that the Landlord did not provide the Tenant with the address until February or March 2023; at which time the Tenant paid the Landlord all of the arrears owing. It was the Tenant's evidence that the address should be the Landlord's address not the legal representative or an agent.
5. It was the Landlord's evidence that the Landlord's address in the form of the address for the Landlord's legal representative and email address was provided to the Tenant on June 1, 2022 in a letter to the Tenant with a direction to use the Landlord's legal representative address for service. This was prior to the N4 being served on June 15, 2022.
6. I find that based on the above, the Landlord did provide an address to the Tenant on June 1, 2022 prior to the N4 being served and as such when the application was filed the Tenant had a proper address for service for the Landlord. In addition, at the time the application was filed in July 2022, the Tenant had arrears of rent owing to the Landlord.

Determinations:

7. 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.
8. As of the hearing date, the Tenant was still in possession of the rental unit.
9. The lawful rent is \$1,967.35. It is due on the 1st day of each month.
10. Based on the Monthly rent, the daily rent/compensation is \$64.68. This amount is calculated as follows: $\$1,967.35 \times 12$, divided by 365 days.
11. The Tenant has made all payments of arrears and rent ongoing the application was filed.
12. The rent arrears owing to November 30, 2023 are \$0.00.

13. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
14. There is no last month's rent deposit.

It is ordered that:

1. The Tenant shall pay the Landlords \$186.00 for the cost of filing the application.

File Number: LTB-L-042124-22

2. If the Tenant does not pay the Landlords the full amount owing on or before January 6, 2024, the Tenant will start to owe interest. This will be simple interest calculated from January 7, 2024 at 7.00% annually on the balance outstanding.

December 12, 2023

Date Issued

Camille Clyne

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.