



Order under Section 69 Residential Tenancies Act, 2006

Citation: Zeinalzadegan v Clayton, 2023 ONLTB 80306

Date: 2023-12-11

File Number: LTB-L-052591-23

In the matter of: 44 Micmac Crescent
North York, ON M2H 2K2

Between: Mehrdad (Mike) Zeinalzadegan Landlord

And

Cody-Anthony Lamont Clayton Tenants
Richard A Clayton

Mehrdad (Mike) Zeinalzadegan (the 'Landlord') applied for an order to terminate the tenancy and evict Cody-Anthony Lamont Clayton and Richard A Clayton (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

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

The Landlord, the Landlord's Legal Representative Michael Pilleci, and the Tenant Cody-Anthony Lamont Clayton (the 'Tenant') attended the hearing. The Tenant met with Tenant Duty Counsel prior to the hearing.

Determinations:

Preliminary Issue – Unit Number

1. The Tenant submitted that the N4 is defective because it does not the rental unit as required under s. 43(1)(a) of the *Residential Tenancies Act, 2006* (the 'Act').
2. The Tenant submitted that his lease was separate from the other tenants in the unit, and he testified that he is renting a room.
3. The Landlord submitted a copy of the lease, which does not specify a room or unit number, only the address as set out.
4. On the basis of the evidence I heard from both parties, I am satisfied that the N4 notice of termination is compliant with s. 43(1)(a) of the Act as the notice does indicate the rental unit as contemplated in the lease between the parties and the Tenants' preliminary motion to summarily dismiss the Landlord's application is denied.

Landlord's Application

5. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Non-payment 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.
6. As of the hearing date, the Tenants were still in possession of the rental unit.
7. The lawful rent is \$850.00. It is due on the 1st day of each month.
8. Based on the Monthly rent, the daily rent/compensation is \$27.95. This amount is calculated as follows: $\$850.00 \times 12$, divided by 365 days.
9. The Tenants have paid \$3,400.00 to the Landlord since the application was filed.
10. The rent arrears owing to November 30, 2023 are \$2,150.00.
11. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
12. The Landlord collected a rent deposit of \$850.00 from the Tenants 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.
13. Interest on the rent deposit, in the amount of \$27.60 is owing to the Tenants for the period from August 5, 2022 to November 21, 2023.

Section 83 Considerations

14. The Tenant acknowledged the arrears and testified that he works in the film industry and that his work had been affected by the recent strike.
15. The Tenant testified that he is currently working two jobs and testified that he is taking home approximately \$1,000.00 - \$1,400.00 per month. The Tenant testified that he has minimal expenses and proposed a payment plan whereby he would pay an additional \$50.00 to \$100.00 a month in order to repay the arrears.
16. The Tenant testified that the market is not the best at the moment and that he is at risk of homelessness should he be evicted. The Tenant testified that he is currently close to his dentist and is paying a reasonable amount of rent at the moment.
17. The Landlord is seeking a standard order. The Tenant would not agree to a payment plan prior to the hearing and the Landlord testified that he doesn't believe the Tenant can afford the rent.
18. Having considered the circumstances of the parties including the Tenant's expenses and the amount of arrears, I find on a balance of probabilities that the Tenant's proposed payment plan is reasonable and will be enforced starting January 1, 2024 at \$100.00 per month until the arrears are paid in full.
19. 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.

It is ordered that:

1. The Tenants shall pay to the Landlord \$2,336.00 for arrears of rent up to November 30, 2023, and costs.
2. The Tenants shall pay to the Landlord the amount set out in paragraph 1 in accordance with the following schedule:
 - a) \$100.00 on or before the 1st of each consecutive month, starting January 1, 2024, until November 1, 2025.
 - b) \$36.00 on or before December 1, 2025.
3. The Tenants shall also pay to the Landlord new rent on time and in full as it comes due and owing for the period starting January 1, 2024 to December 1, 2025, or until the arrears are paid in full, whichever date is earliest.
4. If the Tenants fail 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 Tenants to the Landlord pursuant to paragraph 1 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenants, apply to the LTB within 30 days of the Tenants' breach pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenants and requiring that the Tenants pay any new arrears, NSF fees and related charges that became owing after November 30, 2023

December 11, 2023

Date Issued

Jagger Benham

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.