



Order under Section 69 Residential Tenancies Act, 2006

Citation: Sheet v Pigeon, 2023 ONLTB 80288

Date: 2023-12-11

File Number: LTB-L-045262-23

In the matter of: 219-3121 Sheppard Avenue East
Scarborough, ON M1T 0B6

Between: Martin Sheet Landlord

And

Lukas Pigeon Tenants
Patricia Santos Outeiro

Martin Sheet (the 'Landlord') applied for an order to terminate the tenancy and evict Lukas Pigeon and Patricia Santos Outeiro (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 Tigran Sandukhchyan, and the Tenant Luka Pigeon (the 'Tenant') attended the hearing. The Tenant met with Tenant Duty Counsel prior to the hearing.

Determinations:

1. 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.
2. As of the hearing date, the Tenants were still in possession of the rental unit.
3. The lawful rent is \$3,000.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$98.63. This amount is calculated as follows: \$3,000.00 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 \$17,550.00.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

8. The Landlord collected a rent deposit of \$2,310.00 from the Tenant 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.
9. Interest on the rent deposit, in the amount of \$71.52 is owing to the Tenant for the period from August 27, 2022 to November 21, 2023.

Tenant Evidence – s. 83 Considerations

10. The Tenant testified that he paid the rent via post-dated cheques and that the Landlord has failed to cash any of the cheques as of the date of the hearing.
11. The Tenant also alleges that the Landlord had made aggressive phone calls to the Tenants, forced entry into the unit and testified that communication has broken down between the Tenants and the Landlord. No evidence was provided with respect to these incidents or the post-dated cheques, other than a copy of the lease.
12. The Tenant never cancelled the post-dated cheques and worries that all of the cheques will be cashed at once. He is seeking time in order to rectify the situation to get the rent paid and had proposed a payment plan whereby he would pay the regular monthly rent plus an additional \$1,200.00 a month until the arrears are paid off.
13. The Tenant also testified that his wife is four months pregnant and that the unit is close to his work. The Tenant testified about the challenge of being evicted during the winter.
14. Having assessed the evidence of both parties, I am not satisfied that the Tenants' proposed payment plan is reasonable. The Tenant provided post-dated cheques to the Landlord. Despite not being cashed, the Tenant seemingly spent the money that would have been in his bank account for his rent payments. I do not find the Tenant's response to this situation to be reasonable in the circumstances.
15. That said, based on the Tenant's evidence he will be given until the end of February to either void the order or to vacate the unit.
16. 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 February 29, 2024 pursuant to subsection 83(1)(b) of the Act.

It is ordered that:

1. The tenancy between the Landlord 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 Landlord:**
 - \$20,736.00 if the payment is made on or before December 31, 2023. See Schedule 1 for the calculation of the amount owing.

OR

- \$23,736.00 if the payment is made on or before January 31, 2024. See Schedule 1 for the calculation of the amount owing.

OR

- \$26,736.00 if the payment is made on or before February 29, 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 February 29, 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 February 29, 2024.**
 5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$14,425.71. 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 Landlord owes 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 Landlord compensation of \$98.63 per day for the use of the unit starting November 22, 2023 until the date the Tenants move out of the unit.
 7. If the Tenants do not pay the Landlord the full amount owing on or before December 22, 2023, the Tenants will start to owe interest. This will be simple interest calculated from December 23, 2023 at 7.00% annually on the balance outstanding.
 8. If the unit is not vacated on or before February 29, 2024, then starting March 1, 2024, the Landlord 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 Landlord on or after March 1, 2024.

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.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on September 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	\$20,550.00
Application Filing Fee	\$186.00
Total the Tenants must pay to continue the tenancy	\$20,736.00

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	\$23,550.00
Application Filing Fee	\$186.00
Total the Tenants must pay to continue the tenancy	\$23,736.00

C. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before February 29, 2024

Rent Owing To February 29, 2024	\$26,550.00
Application Filing Fee	\$186.00
Total the Tenants must pay to continue the tenancy	\$26,736.00

D. Amount the Tenants must pay if the tenancy is terminated:

Rent Owing To Hearing Date	\$16,621.23
Application Filing Fee	\$186.00
Less the amount of the last month's rent deposit	- \$2,310.00
Less the amount of the interest on the last month's rent deposit	- \$71.52
Total amount owing to the Landlord	\$14,425.71
Plus daily compensation owing for each day of occupation starting November 22, 2023	\$98.63 (per day)