



Order under Section 69 Residential Tenancies Act, 2006

Citation: Renato Developments v Vo, 2023 ONLTB 79447

Date: 2023-12-06

File Number:
LTB-L-042495-22

In the matter of: 402, 3091 EGLINTON AVE E
SCARBOROUGH ON M1J2G1

Between: Renato Developments Landlord

And

Danny Vo Tenants
Velauthapillai Sugunan

Renato Developments (the 'Landlord') applied for an order to terminate the tenancy and evict Danny Vo and Velauthapillai Sugunan (the 'Tenants') because the Tenants did not pay the rent that the Tenants owes.

This application was heard by videoconference on November 22, 2023.

The Landlord's Legal Representative, David Ciobotaru, and the Landlord's Agents, Derek Chan ("DC") and Aison Yamasa ("AY") attended the hearing. Also in attendance was Phang W on behalf of the Tenants to request an adjournment.

Determinations:

Previous Adjournment Request

1. This application was filed July 28, 2022. The matter was first scheduled to be heard on February 28, 2023. The Tenants requested an adjournment and provided a doctor's note stating the Tenant, Velauthapillai Sugunan ("VS"), was not well and should rest. VS did not attend the first hearing.
2. The Tenants' adjournment request was granted. The Tenants were advised the next scheduled hearing would be peremptory on both Tenants, and they were ordered to pay

rent as it comes due in the interim. The alleged arrears owing at that time were \$16,236.00.

3. The Tenants have paid \$1,400.00 to the Landlord since the last hearing. Therefore, the Tenants failed to comply with the interim order to pay rent as it comes due.

Tenants' Request for Adjournment

4. At the hearing before me, the Tenants requested an adjournment as VS was unwell. The Tenants submitted two letters from Scarborough Health Network dated November 7, 2023 and November 16, 2023.
5. The Landlord objected to the Tenants request for adjournment. Neither of the letters presented indicate VS was unable to attend the hearing. There is no evidence before the Board about why the second Tenant Danny Vo could not attend.
6. In consideration of the above circumstances, I denied the request for an adjournment. I am not satisfied either of the Tenants are unable to participate in the hearing. Further, the prejudice to the Landlord significantly outweighs that of the Tenants as the arrears now reach the maximum jurisdiction of the Board.
7. The Landlord 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.
8. As of the hearing date, the Tenants was still in possession of the rental unit.
9. The lawful rent is \$2,152.50. It is due on the 1st day of each month.
10. Based on the Monthly rent, the daily rent/compensation is \$70.77. This amount is calculated as follows: \$2,152.50 x 12, divided by 365 days.
11. The Tenants has paid \$1,400.00 to the Landlord since the application was filed.
12. The rent arrears owing to November 30, 2023 are \$34,515.00.
13. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
14. The Landlord collected a rent deposit of \$2,100.00 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.
15. Interest on the rent deposit, in the amount of \$77.67 is owing to the Tenants for the period from June 1, 2022 to November 22, 2023.
16. As recently confirmed by the Divisional Court in Galaxy Real Estate Core Ontario LP v. Kirpichova, 2023 ONSC 4356, while the Board cannot order a person to pay more than \$35,000.00, this does not apply to the "stay and pay" option set out in the order below. The Tenant can choose to pay the full amount of rent, and costs owing to the Landlord if they choose not to vacate the unit. This amount is optional and only required if the Tenant

elects to continue the tenancy. Therefore, the Board is not ordering this amount to be paid and is not ordering an amount that exceeds its monetary jurisdiction.

17. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenants and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) 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 or to the LTB in trust:**
 - \$36,853.50 if the payment is made on or before December 17, 2023. 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 has paid the full amount owing as ordered plus any additional rent that became due after December 17, 2023 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 December 17, 2023**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$31,927.77. 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 \$70.77 per day for the use of the unit starting November 23, 2023 until the date the Tenants moves out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before December 17, 2023, the Tenants will start to owe interest. This will be simple interest calculated from December 18, 2023 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before December 17, 2023, then starting December 18, 2023, 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 December 18, 2023.

December 6, 2023

Date Issued

Elena Jacob

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 June 18, 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 17, 2023

Rent Owing To December 31, 2023	\$38,067.50
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$1,400.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenants for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$36,853.50

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

Rent Owing To Hearing Date	\$35,319.44
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$1,400.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$2,100.00
Less the amount of the interest on the last month's rent deposit	- \$77.67
Less the amount the Landlord owes the Tenants for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$0.00
Total amount owing to the Landlord	\$31,927.77
Plus daily compensation owing for each day of occupation starting November 23, 2023	\$70.77 (per day)