



Order under Section 69 Residential Tenancies Act, 2006

Citation: Corp v Hassan, 2023 ONLTB 78761

Date: 2023-12-06

File Number: LTB-L-052807-23

In the matter of: 23, 352 PATRICIA AVENUE KITCHENER
ON N2M1K1

Between: Greenwin Corp Landlord

And

Abdi Hassan Tenant

Greenwin Corp (the 'Landlord') applied for an order to terminate the tenancy and evict Abdi Hassan (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on November 22, 2023 at 1:00 pm.

The Landlord Representative Sean Beard and the Tenant attended the hearing.

Determinations:

1. The Landlord 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.
2. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$928.55. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$30.53. This amount is calculated as follows: \$928.55 x 12, divided by 365 days.
5. The Tenant has paid \$2,751.00 to the Landlord since the application was filed.
6. The rent arrears owing to November 30, 2023 are \$2,820.40.
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 \$826.00 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 \$18.44 is owing to the Tenant for the period from January 1, 2023 to November 22, 2023.
10. It was the Tenant's position that he did not owe the rent arrears as alleged. He testified that he had bank statements that proved that he had paid the rent, in addition to proof that the Landlord had illegally taken money from his account.
11. In response, the Landlord Representative testified that he had not received any disclosure from the Tenant and that this was the same testimony that the Tenant provided at a previous rent arrears application which was resolved by order LTB-L-025505-22 issued February 8, 2023, where again he failed to provide any disclosure.
12. Canvassing the Tenant, he admitted to not submitting his evidence to the Board but stipulated he had attempted to provide to the Landlord, but the Landlord refused. He then requested I consider his evidence holding indiscernible papers up to the camera.
13. Having reviewed order LTB-L-025505-22 issued February 8, 2023, and finding that Tenant's testimony before me was the same as at that hearing I directed that I would not accept the Tenant's evidence, owing to the fact he had been before the Board before and ought to have known the disclosure requirements.
14. In response the Tenant proceeded to make accusations of collusion with the Landlord and unjust infringement of his rights. Canvassing the Tenant as to relief he testified that he would require 6 months to a year and again made further accusations of collusion and the poor character of the presiding member.
15. 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 Tenant and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
16. Specifically, given that the Tenant had just been before the Board for the same issue no more than 9 months ago and went into arrears again within 3 months of that matter being resolved while offering the same explanations, I am satisfied on the balance of probabilities that the Tenant is actively attempting to engage in abuse of process and as such any relief would be prejudicial to the Landlord.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.

2. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$3,934.95 if the payment is made on or before December 17, 2023. See Schedule 1 for the calculation of the amount owing.
3. The Tenant may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenant 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 Tenant may only make this motion once during the tenancy.
4. **If the Tenant does not pay the amount required to void this order the Tenant must move out of the rental unit on or before December 17, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$1,905.07. 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 Tenant. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$30.53 per day for the use of the unit starting November 23, 2023 until the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlord the full amount owing on or before December 17, 2023, the Tenant 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

Kelly Delaney

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 Tenant 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	\$6,499.95
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$2,751.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total the Tenant must pay to continue the tenancy	\$3,934.95

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

Rent Owing To Hearing Date	\$5,314.51
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$2,751.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$826.00
Less the amount of the interest on the last month's rent deposit	- \$18.44
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlord	\$1,905.07
Plus daily compensation owing for each day of occupation starting November 23, 2023	\$30.53 (per day)