



Order under Section 69 Residential Tenancies Act, 2006

Citation: INSPIRED LIFE INVESTMENTS INC. v Rattu, 2023 ONLTB 77228

Date: 2023-12-05

File Number: LTB-L-060984-22

In the matter of: 1, 9 2nd Avenue S Levack
ON P0M2C0

Between: INSPIRED LIFE Landlord
INVESTMENTS INC.

And

Bruce Rattu Tenant

INSPIRED LIFE INVESTMENTS INC. (the 'Landlord') applied for an order to terminate the tenancy and evict Bruce Rattu (the 'Tenant') because:

- the Tenant did not pay the rent that the Tenant owes (L1 Application); and
- the Tenant has been persistently late in paying the Tenant's rent; (L2 Application).

These two applications were heard by videoconference on November 15, 2023. The Landlord's agent, Jackie Dosen, and the Landlord's representative, Angie Gravelle, attended the hearing. As of 9:55 am, the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

L1 Application – Non-Payment of Rent

1. The Landlord served the Tenant with a valid Notice to End the Tenancy Early for Nonpayment 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 \$1,306.88. It is due on the 1st day of each month.
4. Based on the monthly rent, the daily rent/compensation is \$42.97. This amount is calculated as follows: \$1,306.88 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to November 30, 2023 are \$21,689.39.
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 \$1,275.00 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 \$48.55 is owing to the Tenant for the period from May 9, 2022 to November 15, 2023.
10. The Landlord's representative submitted that the Landlord sent two letters to the Tenant on October 3, 2022 and October 30, 2023, as well as three emails on November 25, 2022, June 21, 2023, and October 20, 2023, offering an arrears payment plan to the Tenant; however, the Tenant never responded to the Landlord's offers. The representative noted that in the tenancy agreement both parties consented to the exchange of documents via email.
11. 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.
12. The Landlord's representative and agent were not aware of any circumstances that should be considered in a determination of whether to provide the Tenant with eviction relief, nor was the Tenant or his representative present at the hearing to provide submissions with respect to the Tenant's relief from eviction. For these reasons, it would be unfair to the Landlord to grant the Tenant with eviction relief.

L2 Application – Persistent Late Payment of Rent

13. On October 3, 2022 the Landlord served the Tenant an N8 notice of termination with a date of termination of May 31, 2023. The notice of termination alleges that the Tenant paid the rent late 4 times over the 5-month period from June 1, 2022 to October 1, 2022. I am satisfied that this N8 was properly served and complies with s. 58(2) of the *Residential Tenancies Act, 2006* (the "Act").
14. The Landlord filed an L2 application with the Board on October 20, 2022. I am satisfied that this application complies with s. 69(1) of the Act. The Tenant was in possession of the

rental unit on the day of filing, and remains in possession of the rental unit as of the day of this hearing.

15. The rent is due on the first day of each month.
16. The Landlord's representative submitted that the Tenant paid the rent late for 5 months over the 5-month period from June 1, 2022 to October 1, 2022. The Landlord provided rent ledgers with the late rent payments, and noted that the Tenant's rent payment on October 1, 2022 was returned NSF.
17. On the basis of the Landlord's uncontested evidence, I am not satisfied that the Landlord has established, as provided in the N8 Notice, that the Tenant persistently paid the rent late. I accept that for the months of July 2022 and October 2022 the Tenant paid the rent on-time on July 1, 2022 and October 1, 2022 respectively; however, the payments were later returned NSF. I find that the Tenant paid the rent late for five months, from June 2022 to October 2022; however, five months is an insufficient period to establish that the rent was paid persistently late. Accordingly, as provided in the N8 Notice, I find that the Tenant has not persistently failed to pay the rent on the date it was due.

It is ordered that:

L1 Application – Non-Payment of Rent

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:**
 - \$23,182.27 if the payment is made on or before December 16, 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 16, 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 16, 2023.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$19,889.51. 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 \$42.97 per day for the use of the unit starting November 16, 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 16, 2023, the Tenant will start to owe interest. This will be simple interest calculated from December 17, 2023 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before December 16, 2023, then starting December 17, 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 17, 2023.

L2 Application – Persistent Late Payment of Rent

10. The Landlord's L2 application is dismissed.

December 5, 2023

Date Issued

Frank Ebner
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 17, 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 16, 2023

Rent Owing To December 31, 2023	\$22,996.27
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
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	\$23,182.27

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

Rent Owing To Hearing Date	\$21,027.06
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
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	- \$1,275.00
Less the amount of the interest on the last month's rent deposit	- \$48.55
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	\$19,889.51
Plus daily compensation owing for each day of occupation starting November 16, 2023	\$42.97 (per day)