



Order under Section 69 Residential Tenancies Act, 2006

Citation: Amandeep v walsh, 2023 ONLTB 78225

Date: 2023-12-01

File Number: LTB-L-048779-22

In the matter of: 34 ASHLEY PL
LONDON ON N6E3P7

Between: Amandeep Jaidka Landlord

And

Shannon Rose Walsh, Alexander Walsh and Tenant
Olivia Walsh

Amandeep Jaidka (the 'Landlord') applied for an order to terminate the tenancy and evict Shannon Rose Walsh, Alexander Walsh and Olivia Walsh (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

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

The Landlord and the Tenant Shannon Rose Walsh attended the hearing.

Determinations:

1. At the hearing, the Landlord confirmed that his name is "Amandeep Jaidka" and not "Jaidka Amandeep" and requested an amendment to the application to reflect this typographical error. The Tenant did not oppose this request. The proceedings have been amended accordingly.
2. 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.
3. As of the hearing date, the Tenant was still in possession of the rental unit.
4. The lawful rent is \$2,900.00. It is due on the 1st day of each month.

5. Based on the Monthly rent, the daily rent/compensation is \$95.34. This amount is calculated as follows: \$2,900.00 x 12, divided by 365 days.
6. The Tenant has paid \$4,050.00 to the Landlord since the application was filed.
7. The rent arrears owing to November 30, 2023 are \$42,350.00.
8. The Tenant states that her calculations show \$37,700.00 is outstanding but provides no evidence to support her claim. I am satisfied based on the evidence and submissions that the rent arrears owing to November 30, 2023 are \$42,350.00 as it was undisputed that the Tenant had made payments to the Landlord of \$750.00, \$1,500.00 on September 4, 2022 and on November 5, 2022 and a final payment of \$300.00 on April 30, 2023.
9. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
10. The Landlord collected a rent deposit of \$2,900.00 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.
11. Interest on the rent deposit, in the amount of \$101.30 is owing to the Tenant for the period from July 1, 2022 to November 22, 2023.
12. The total amount to be paid by the Tenant is capped at \$35,000.00 which is the jurisdictional limit of the Board. This means that the Landlord waives the amount in excess of \$35,000.00 and cannot seek this amount in any forum of competent jurisdiction including through the Board.
13. The next issue for the Board is with respect to relief from eviction.
14. Pursuant to s. 83(2) of the Act, the Board is required to consider “all of the circumstances” to determine whether or not it would be unfair to refuse eviction, delay eviction, or put in place some sort of conditional order. This is called discretionary relief from eviction. For the reasons that follow, I am satisfied it would not be unfair in all of the circumstances to delay eviction until December 15, 2023. I say this for the following reasons.
15. The Landlord requested a standard order for eviction because he is now in severe financial hardship due to the non-payment of rent. The Landlord submits that he has a 9 month old baby and due to extreme stress, his marriage has broken down and he is now separated. The Landlord states that he is experiencing depression, is on medication and is “totally destroyed”. The Landlord submits that the mortgage on the rental unit has increased to \$6,000.00 per month and he is also renting which is an additional \$2,000.00 per month.
16. The Tenant has two children, ages 14 and 19 years old and states that she has experienced domestic abuse and lost her job. The Tenant is apologetic to the Landlord but states she just does not have any money. The Tenant states that she receives \$1,600.00 per month from her disability cheque as she has been off work on sick leave. The Tenant

submits that she believed her 19 year old son was paying the rent and as she has no money, she cannot pay rent for December, 2023. The Tenant testified that she does have somewhere to go if evicted but would prefer to not have to move twice as she is waiting for the Courts to determine if her boyfriend will be granted bail. That bail hearing is scheduled for November 29, 2023 and the Tenant requests that she be given until at least January 1, 2024 to vacate the rental unit.

17. The Tenant has a 14 year old and a 19 year old but has not paid rent to the Landlord in quite some time and it does not appear that she has the means to pay the rent. While I accept that the Tenant has encountered difficulties, particularly with her personal and financial circumstances, she has made no attempts to pay rent, with the last payment being \$300.00 in April, 2023. The Landlord is experiencing severe financial and personal hardships as well. Given all of the evidence and submissions before me, this tenancy, in my view, is just not viable any longer and to prolong it would be prejudicial to the Landlord and unfair to the Tenant as the arrears are surmounting.
18. 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 December 15, 2023 pursuant to subsection 83(1)(b) of the Act.
19. This order contains all of the reasons within it and no further reasons will be issued.

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:**
 - \$44,686.00 if the payment is made on or before December 15, 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 15, 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 15, 2023.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$35,186.00. 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 \$95.34 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 12, 2023, the Tenant will start to owe interest. This will be simple interest calculated from December 13, 2023 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before December 15, 2023, then starting December 16, 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 16, 2023.

December 1, 2023

Date Issued

Heather Chapple

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 16, 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 15, 2023

Rent Owing To December 31, 2023	\$48,550.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$4,050.00
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	\$44,686.00

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

Rent Owing To Hearing Date	\$44,847.48
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$4,050.00
Less the amount of the last month's rent deposit	- \$2,900.00
Less the amount of the interest on the last month's rent deposit	- \$101.30
Less the amount the Landlord waived above the LTB's jurisdictional limit	- \$2,796.18
Total amount owing to the Landlord	\$35,186.00
Plus daily compensation owing for each day of occupation starting November 23, 2023	\$95.34 (per day)