



Order under Section 69 Residential Tenancies Act, 2006

Citation: Goodfellow Management v Petersen, 2023 ONLTB 64066

Date: 2023-11-30 **File Number:** LTB-L-059451-22
and LTB-L-023563-23

In the matter of: 234 Margaret Street Angus
ON L0M1B0

Between: Goodfellow Management, Michael Cross and Landlord
James Brown

And

Lena Petersen Tenant

Goodfellow Management, Michael Cross and James Brown (the 'Landlord') applied for an order to terminate the tenancy and evict Lena Petersen (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.(L1/N4 APPLICATION)

Goodfellow Management, Michael Cross and James Brown (the 'Landlord') applied for an order to terminate the tenancy and evict Lena Petersen (the 'Tenant') because the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year. (L2/N12 APPLICATION)

This application was heard by videoconference on May 25, 2023.

The Landlord and the Tenant attended the hearing.

L2/N12 Application:

1. The Landlord applied for an order to terminate the tenancy and evict the Tenant because the Landlord requires possession of the rental unit for the purpose of residential occupation. The N12 was served on the Tenant on January 01, 2023. The termination date on the notice is March 31, 2023.

2. The Landlord did not pay the Tenant compensation equivalent of one month's rent by the termination date or offer an alternative unit. According to the Landlord, he offered the compensation to the Tenant, but the Tenant refused. As such, the Landlord did not pay the Tenant compensation equivalent to one month's rent by the termination date or offer an alternative unit on or before March 31, 2022 N12 termination date, despite the Tenant's refusal to vacate the rental unit.
3. Section 48.1 of the Act states that, "a landlord shall compensate a tenant in the amount equal to one month's rent or offer the tenant another rental unit acceptable to the tenant if the landlord gives the tenant a notice of termination of the tenancy on behalf of a purchaser under section 48(1)".
4. Section 55.1 of the Act requires that compensation under section 48.1 be paid to the Tenant no later than the termination date specified in the notice of termination. In the present case, the termination date in the N12 Notice of Termination is May 31, 2022.
5. Section 83(4) of the Act states that "[t]he Board shall not issue an eviction order in a proceeding regarding termination of a tenancy for the purposes of residential occupation, . . . until the landlord has complied with section 48.1. . .".
6. As a result, pursuant to subsection 83(4) of the Act, the Board cannot issue an eviction order in this hearing and must dismiss the Landlord's application in this case.
7. As compensation was not paid by the termination date per subsection 48.1 of the Act, pursuant to subsection 83(4) of the Act, the Board cannot issue an eviction order in this hearing. Therefore, the Landlord's application is dismissed, and my order will issue accordingly.

L1/N4 Application – Rent Arrears Determinations:

8. 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.
9. As of the hearing date, the Tenant was still in possession of the rental unit.
10. The lawful rent is \$1,322.00. It is due on the 1st day of each month.
11. Based on the Monthly rent, the daily rent/compensation is \$43.46. This amount is calculated as follows: \$1,322.00 x 12, divided by 365 days.
12. The Tenant has paid \$700.00 to the Landlord since the application was filed.
13. The rent arrears owing to May 31, 2023 are \$10,160.00.
14. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

15. 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.
16. Interest on the rent deposit, in the amount of \$125.84 is owing to the Tenant for the period from October 8, 2016 to April 25, 2023.
17. The Tenant did not dispute the arrears but submitted that she had financial difficulties paying rent due to her inability to work because of health reasons. The Tenant has a history of bilateral hip replacement, chronic pain, fibromyalgia, and bipolar mood disorder, for which she submitted evidence to the Board to substantiate her claim.
18. Her family physician, Dr. Kian Khatami, completed the medical note confirming her health difficulties. The Tenant claims she was laid off from a Honda subsidiary plant in Alliston after working there for six years until October 2021. Due to her declining health, she encountered difficulties returning to work.
19. The Tenant received \$2,468.00 monthly employment insurance benefits from November 2021 to August 2022 and now receives \$1,032.00 monthly Ontario Works benefits from August 2022 and monthly Child Tax benefits. The Tenant claims her monthly expenses include \$342.00 auto and home insurance, Internet and utilities of \$486.00.
20. The Landlord expressed doubt about the Tenant's ability to pay rent arrears because it is significant and asserts that any monthly payment plan seems unrealistic and may put the Tenant in further financial distress. The Landlord sought a standard eviction order.
21. 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 November 30, 2023 pursuant to subsection 83(1)(b) of the Act.
22. On balance, while considering the Tenant's circumstances, particularly with respect to her health issues, delaying the eviction until November 30, 2023, as per subsection 83(1)(b), would be reasonable because it gives the Tenant sufficient time to pay off the rent arrears and void this order or find alternative accommodation.

It is ordered that:

Regarding L2/N12 Application:

1. The Landlord's application is dismissed.

Regarding L1/N4 Application

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:**

- \$18,278.00 if the payment is made on or before November 30, 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 November 30, 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 November 30, 2023**
 5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$8,727.86. 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 \$43.46 per day for the use of the unit starting April 26, 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 11, 2023, the Tenant will start to owe interest. This will be simple interest calculated from December 12, 2023 at 6.00% annually on the balance outstanding.
 8. If the unit is not vacated on or before November 30, 2023, then starting December 1, 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 1, 2023.

September 22, 2023

Date Issued

Percy Laryea

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 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 Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before November 30, 2023**

Rent Owing To November 30, 2023	\$18,792.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$700.00
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	\$18,278.00

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

Rent Owing To Hearing Date	\$10,642.70
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$700.00
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	- \$125.84
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	\$8,727.86
Plus daily compensation owing for each day of occupation starting April 26, 2023	\$43.46 (per day)