



**Order under Section 69
Residential Tenancies Act, 2006**

Citation: Victoria Wood (Main Square) Inc c/o Realstar Management Partnership v Ashley, 2023
ONLTB 77860

Date: 2023-11-29

File Number: LTB-L-026916-23

In the matter of: 1408, 265 MAIN ST
TORONTO ON M4C4X3

Between: Victoria Wood (Main Square) Inc c/o Realstar Management Partnership Landlord

And

Shane Rashaun Ashley Tenant

Victoria Wood (Main Square) Inc c/o Realstar Management Partnership (the 'Landlord') applied for an order to terminate the tenancy and evict Shane Rashaun Ashley (the 'Tenant') because:

- the Tenant has been persistently late in paying the Tenant's rent.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on November 14, 2023. The Landlord's representative, Faith McGregor and the Tenant attended the hearing.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and/or the claim for compensation in the application. Therefore, the Application is granted and the tenancy shall terminate.
2. The Tenant was in possession of the rental unit on the date the application was filed.

3. On March 3, 2023, the Landlord gave the Tenant an N8 notice of termination. The notice of termination contains alleges that the Tenant paid the rent late 12 times during the 12-month period of March 2022 to February 2023.
4. The Tenant did not dispute the late payments of rent.
5. I find the Tenant has persistently failed to pay the rent on the date it was due. The rent is due on the 1st day of each month. The rent has been paid late 12 times in the 12-month period covered by the N8.

File Number: LTB-L-026916-23

6. Since the application was filed in April 2023, the Tenant has paid the rent late for the following months: April 2023 to June 2023. The Tenant has not made any payments from July 2023 to November 2023.

Daily compensation, NSF charges, rent deposit

7. The Landlord's representative confirmed that the Tenant is in arrears however they will waive the daily compensation claimed on the L2 application as there is a L1 application pending.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlord collected a rent deposit of \$1,640.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$35.72 is owing to the Tenant for the period from January 1, 2023 to November 14, 2023.
10. In accordance with subsection 106(10) of the *Residential Tenancies Act, 2006*, (the 'Act') the last month's rent deposit shall be applied to the rent for the last month of the tenancy.

Relief from eviction

11. 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 January 31, 2024 pursuant to subsection 83(1)(b) of the Act.
12. The Landlord is seeking an order for eviction based on the late payments of rent. The Landlord has made attempt to discuss the late payments with the Tenant. The Tenant has failed to pay the rent on time.

13. The Tenant would like to preserve their tenancy and avoid eviction. The Tenant is currently employed and is looking for a second job to keep his finances in order. His fiancée has moved into the rental unit in October 2023 and will pay \$700.00 toward the rent. The Tenant and his fiancé are expecting a child in 2024. The Tenant requested a conditional order to pay rent on time to avoid eviction.
14. The Tenant testified that he had financial difficulties due to high interest loans that he secured in March 2023 in the amount of \$8,500.00 that he used to keep himself afloat financially. He has been attempting to pay these loans off first. The Tenant asserted that he has always been able to pay the rent but just an issue with paying the rent on time. The Tenant is entitled to receive a yearly bonus from employment based on sales performance. Last year, the bonus was approximately \$15,000.00 paid out in quarterly installments.
15. The Tenant requested a delay until January 2024 if they were to be evicted. The Landlord's representative was agreeable to a delay to December 2023 should the eviction be granted.
16. It would be unfair to grant the Tenant's request for a conditional order as the Tenant has not been able to pay his rent on time since March 2022. Even with the financial support of his

File Number: LTB-L-026916-23

fiancée since October 2023, the Tenant did not pay the rent on time for November 2023. Therefore, I find there is no realistic way to impose a conditional order as there is no evidence supporting how the Tenant would satisfy such an order.

17. However, I find that it would not be unfair to grant a delay until January 2024. Given the Tenant's circumstances with his fiancée recently moving into the rental unit and expecting a child in the near future I find that a delay until January 2024 is fair to provide the Tenant time to arrange their affairs and move. The Landlord does have the opportunity to apply the last month's rent deposit and recoup any arrears owing on the pending L1 application.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before January 31, 2024.
2. If the unit is not vacated on or before January 31, 2024, then starting February 1, 2024, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. 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 February 1, 2024.

4. The Tenant shall apay to the Landlord \$186.00 for the cost of filing the application.
5. The Landlord owes \$1,675.72 which is the amount of the rent deposit and interest on the rent deposit, and this is deducted from the amount owing by the Tenant.
6. The total amount the Landlord owes the Tenant is 1489.72
7. If the Landlord does not pay the Tenant the full amount owing on or before January 31, 2024, the Landlord will start to owe interest. This will be simple interest calculated from February 1, 2024 at 7.00% annually on the balance outstanding.

November 29, 2023

Date Issued

Camille Clyne

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 of the Tenant expires on June 30, 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.