



Order under Subsection 87(1) Residential Tenancies Act, 2006

Citation: Ramzan v Hutt, 2023 ONLTB 77511

Date: 2023-11-27

File Number: LTB-L-035452-23

In the matter of: Basement, 149 ONTARIO ST
BOWMANVILLE ON L1C2T7

Between: Sheik Ramzan Landlords
Margaret Piszczek

And

Samantha Hutt Tenants
Mac Barclay

Sheik Ramzan and Margaret Piszczek (the 'Landlords') applied for an order requiring Samantha Hutt and Mac Barclay (the 'Tenants') to pay the rent that the Tenants owes.

This application was heard by videoconference on September 13, 2023.

The Landlords, The Landlords' representative, Thirunavukaras (Karas) Patchamuttu and the Tenants attended the hearing.

Preliminary Issues:

Defective N4 Notice and Amendment,

1. At the hearing the Landlords' N4 Notice of Termination was found to be defective as it did not correctly set out the lawful monthly rent. The Landlords served an invalid Notice of Rent Increase (NORI) in September 2022 that had miscalculated the guideline increase. As a result, the amount's listed on the N4 notice of termination are not the Tenants' lawful monthly rent amount. This miscalculation has led to a defective notice of termination
2. The Board cannot issue an order for an eviction based on a defective notice of termination.
3. The Landlords requested that the application be amended from an application seeking eviction and arrears to an application for arrears only. I was satisfied that there was no



prejudice to the Tenants as the N4 made it clear the Landlords were seeking arrears in addition to an eviction: see *Nejad v. Preddie*, 2016 ONSC 4358 (Div. Ct.).

4. The Landlords confirmed that the arrears should be based on the lawful monthly rent of \$1,339.50. The Tenants did not object to this lawful monthly rent.

Section 82 Issues

5. At the hearing, the Tenants wanted to raise issues under section 82 of the *Residential Tenancies Act, 2006* (Act) for me to consider. The Tenants had not filed a list of section 82 issues with the Board prior to the hearing.
6. In addition, the Landlords and the Landlords' representative were not prepared to address the issues as they were brought forth at the last minute.
7. Pursuant to section 82 of the Act, a Tenants are permitted to raise any issue that could be the subject of an application if the Tenants complies with disclosure requirements or provides an explanation satisfactory to the Board explaining why the Tenants could not comply. Section 82(2) requires a Tenants to give advance notice to the Landlords of the Tenants' intent to raise the issue at the hearing and this notice shall be in writing. Pursuant to Board Rule of Procedure 19.4, the Tenants must provide the list of s.82 issues and the supporting evidence to the Landlords and the Board at least 7 days before the hearing.
8. The notice of hearing that the Tenants received for this hearing is accompanied by documents, one of which includes a blank form that the Tenants could have completed to disclose any Tenant issues. the Tenants therefore were made aware of the section 82 disclosure requirements and did not offer a satisfactory reason for not complying with them.
9. As such, I did not hear the Tenants' evidence regarding the section 82 issues. However, it should be noted that this does not preclude the Tenants from bringing their own application regarding any issues the Tenants wish to raise. They also may contact their local legal clinic to get advice in this regard.

Determinations:

10. As of the hearing date, the Tenants were still in possession of the rental unit.
11. The Tenants did not pay the total rent they were required to pay for the period from March 1, 2023 to September 30, 2023.
12. The lawful rent is \$1,339.50. It is due on the 1st day of each month.



13. The Tenants have not made any payments since the application was filed.
14. The rent arrears owing to September 30, 2023 are \$9,709.14. The Tenants did not dispute the arrears owing to the Landlords.
15. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

It is ordered that:

1. The Tenants shall pay to the Landlords \$9,895.14. This amount includes rent arrears owing up to September 30, 2023 and the cost of the application.
2. If the Tenants do not pay the Landlords the full amount owing on or before December 8, 2023, the Tenants will start to owe interest. This will be simple interest calculated from December 9, 2023 at 7.00% annually on the balance outstanding.

November 27, 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.