



Order under Section 77(8) Residential Tenancies Act, 2006

Citation: Durowoju v Belward, 2023 ONLTB 76815

Date: 2023-11-24

File Number: LTB-L-066290-23-SA

In the matter of: 1461 BUDAPEST CRT
Windsor ON N9G3E4

Between: Raubil Durowoju Landlord

And

Jason Belward, Kristine Campbell and Tenant
Sabrina Mancini

Raubil Durowoju (the 'Landlord') applied for an order to terminate the tenancy and evict Jason Belward, Kristine Campbell and Sabrina Mancini (the 'Tenant').

The Landlord's application was resolved by order LTB-L-066290-23, issued on July 28, 2023. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-066290-23.

The motion was heard by videoconference on November 14, 2023.

The Landlord was represented at the hearing by Tim Currie. The Tenants were represented at the hearing by John Kulikowski.

Determinations:

Sabrina Mancini

1. The Tenants seek to amend the application to remove Sabrina Mancini as a party to the application. There is no consensus among the parties as to whether SM is tenant.
2. I have no jurisdiction to determine this issue. The Tenants are essentially asking to me to revisit order LTB-L-017780-23. LTB-L-017780-23 was a final order of the Board determined by a previous Member. Further, the parties entered into a consent order. If there was any issue as to the status of the party, it should have been addressed at that time. The Tenants' set aside motion is not the forum to relitigate previously determined issues. The Tenants' request is denied.

Amount of rent arrears owing?

3. At the hearing, the parties disagreed as to how much is owing to the Landlord. I stood the matter down so the parties could review the Tenants' payment history. The parties do not disagree on the payments that were made after June 30, 2023. After reviewing the payment history of the Tenant history submitted, and acknowledged by the Tenants, I find the arrears and costs owing to November 30, 2023, to be \$5,724.00.
4. After my determination on the total rent arrears owing, the parties consented to a pay-and-stay order with a termination date of November 30, 2023. An order shall be issued accordingly.

It is ordered that:

1. The motion to set aside order LTB-L-066290-23, issued on July 28, 2023, is granted.
2. Order LTB-L-066290-23 is set aside and replaced as follows:
3. The tenancy between the Landlord and the Tenants is terminated unless the Tenant void this order.
4. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**

\$5,724.00 if the payment is made on or before November 30, 2023. See Schedule 1 for the calculation of the amount owing.

5. The Tenants 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 Tenants may only make this motion once during the tenancy.
6. **If the Tenants do not pay the amount required to void this order the Tenants must move out of the rental unit on or before November 30, 2023**
7. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$3,286.40. 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.
8. The Tenants shall also pay the Landlord compensation of \$74.86 per day for the use of the unit starting November 15, 2023, until the date the Tenant moves out of the unit.
9. If the Tenants do not pay the Landlord the full amount owing on or before November 30, 2023, the Tenants will start to owe interest. This will be simple interest calculated from November 30, 2023, at 7.00% annually on the balance outstanding.
10. 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.

11. 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.

November 24, 2023

Date Issued

Bryan Delorenzi

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 May 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.

Schedule 1
SUMMARY OF CALCULATIONS

A. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before November 2023

Rent and Costs owing to November 30, 2023	\$5,724.00
Total the Tenant must pay to continue the tenancy	\$5,724.00

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

Rent and Costs owing to November 14, 2023	\$5,612.10
Less the amount of the last month's rent deposit	- \$2,250.00
Less the amount of the interest on the last month's rent deposit	- \$75.70
Total amount owing to the Landlord	\$3,286.40
Plus daily compensation owing for each day of occupation starting November 15, 2023	\$74.86 (per day)