



Order under Section 69 Residential Tenancies Act, 2006

Citation: Capreit Limited Partnership v Rona, 2023 ONLTB 75659

Date: 2023-11-23

File Number: LTB-L-047418-23

In the matter of: 417, 11 DERVOCK CRES
NORTH YORK ON M2K1A6

Between: Capreit Limited Partnership Landlord
and
Darcy Rona Tenant

Capreit Limited Partnership (the 'Landlord') applied for an order to terminate the tenancy and evict Darcy Rona (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

The Landlord also claimed charges related to NSF cheques.

This application was heard by videoconference on November 9, 2023.

Only the Landlord's Legal Representative, Nidhi Sharma, attended the hearing.

As of 9:55am, the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. 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.
2. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$2,315.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$76.11. This amount is calculated as follows: \$2,315.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to November 30, 2023 are \$16,205.00.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

8. The Landlord claimed \$150.00 to reimburse the Landlord for administration charges and \$30.00 for bank fees the landlord incurred as a result of preauthorized payments from the Tenant's bank account which were returned NSF.
9. Section 87(5) of the *Residential Tenancies Act, 2006* (the 'Act') states the following:
- (5) On an application by a landlord under this section, the Board may include the following amounts in determining the total amount owing to a landlord by a tenant or former tenant in respect of a rental unit:
1. The amount of NSF cheque charges claimed by the landlord and charged by financial institutions in respect of *cheques tendered* to the landlord by or on behalf of the tenant or former tenant, to the extent the landlord has not been reimbursed for the charges. [Emphasis added]
10. The Landlord's Legal Representative confirmed that the payments were preauthorized withdrawals and not cheques tendered by the Tenant. Therefore, the Landlord is not entitled to reimbursement of those costs.
11. There is no last month's rent deposit.
12. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act, including that the Landlord attempted to negotiate a payment plan with the Tenant, and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

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:**
 - **\$16,391.00** if the payment is made on or before November 30, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 - **\$18,706.00** if the payment is made on or before December 4, 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 4, 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 4, 2023**

5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$14,760.99. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of **\$76.11** per day for the use of the unit starting November 10, 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 4, 2023, the Tenant will start to owe interest. This will be simple interest calculated from December 5, 2023 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before December 4, 2023, then starting December 5, 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 5, 2023.

2023 ONL TB 75659 (CanLII)

November 23, 2023

Date Issued

Candace Aboussafy

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 5, 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 | \$16,205.00 |
| Application Filing Fee | \$186.00 |
| NSF Charges | \$0.00 |
| Less the amount the Tenant paid to the Landlord since the application was filed | - \$0.00 |
| 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 | \$16,391.00 |

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before December 4, 2023

| | |
|--|--------------------|
| Rent Owing to December 31, 2023 | \$18,520.00 |
| Application Filing Fee | \$186.00 |
| NSF Charges | \$0.00 |
| Less the amount the Tenant paid to the Landlord since the application was filed | - \$0.00 |
| 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 | \$18,706.00 |

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

| | |
|--|----------------------|
| Rent Owing to Hearing Date | \$14,574.99 |
| Application Filing Fee | \$186.00 |
| NSF Charges | \$0.00 |
| Less the amount the Tenant paid to the Landlord since the application was filed | - \$0.00 |
| 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 | - \$0.00 |
| Less the amount of the interest on the last month's rent deposit | - \$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 amount owing to the Landlord | \$14,760.99 |
| Plus daily compensation owing for each day of occupation starting November 10, 2023 | \$76.11 (per day) |