



Order under Section 69 Residential Tenancies Act, 2006

Citation: KAYMIC DEVELOPMENTS v Sanford, 2023 ONLTB 75563

Date: 2023-11-23

File Number: LTB-L-050127-23

In the matter of: 709, 263 BRADY ST
SUDBURY ON P3B4A6

Between: KAYMIC DEVELOPMENTS Landlord

And

Brian Sanford Tenant

KAYMIC DEVELOPMENTS (the 'Landlord') applied for an order to terminate the tenancy and evict Brian Sanford (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on November 7, 2023.

Only the Landlord's Agent, Brett Houle, attended the hearing.

As of 2:26 p.m., 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:

Preliminary Issue

1. At the outset of the hearing the Landlord's Agent, submitted that the Tenant may be deceased. The Landlord's agent submitted that they heard from another resident in the building sometime in May 2023 that the Tenant is deceased. The Landlord did a welfare check sometime in June 2023 and there was no one in the unit and the notices that they slipped under the door were untouched. The last communication the Landlord had with the Tenant was sometime in April 2023.
2. In light of the limited evidence before me, I am unable to find that the Tenant is deceased and that subsection 91(1) of the *Residential Tenancies Act, 2006* (the "Act"), which relates to the death of a tenant applies. Specifically, there is no way to verify that the Tenant is deceased without a death certificate. Accordingly, I proceeded to hear the merits of the application on the basis that the Tenant is still in possession of the rental unit, although he did not attend the hearing.

Arrears owing

3. 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.
4. As of the hearing date, the Tenant was still in possession of the rental unit.
5. The lawful rent is \$933.57. It is due on the 1st day of each month.
6. Based on the Monthly rent, the daily rent/compensation is \$30.69. This amount is calculated as follows: $\$933.57 \times 12$, divided by 365 days.
7. The Tenant has not made any payments since the application was filed.
8. The rent arrears owing to November 30, 2023 are \$1,623.57.
9. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
10. There is no last month's rent deposit.
11. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement 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:**
 - \$1,809.57 if the payment is made on or before November 30, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 - \$2,743.14 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 \$1,090.83. 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 \$30.69 per day for the use of the unit starting November 8, 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.

November 23, 2023
Date Issued

Teresa Hunt
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	\$1,623.57
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	\$1,809.57

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	\$2,557.14
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	\$2,743.14

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

Rent Owing To Hearing Date	\$904.83
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	\$1,090.83
Plus daily compensation owing for each day of occupation starting November 8, 2023	\$30.69 (per day)