



Order under Section 69 Residential Tenancies Act, 2006

Citation: Zheng v Flannigan-Pryce, 2023 ONLTB 75155

Date: 2023-11-20

File Number: LTB-L-017451-22

In the matter of: Ground floor, 3 Landseer Road Scarborough
ON M1K3A6

Between: York Zheng Landlord

And

Trudy Flannigan-Pryce Tenant

York Zheng (the 'Landlord') applied for an order to terminate the tenancy and evict Trudy FlanniganPryce and Shawntai Pryce (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on November 7, 2023. The Landlord and the Tenant attended the hearing.

Preliminary Issues:

Shawntai Pryce is removed as a party to the application based on the Tenant's testimony that she vacated the rental unit in November 2019, long before the Landlord filed the application.

The Tenant intended to raise issues pursuant to section 82 of the Residential Tenancies Act, 2006 ('the Act'), and despite not providing prior notice to the Landlord, the Landlord was prepared to proceed on the hearing of the issues. However, the Tenant opted to abandon the claims when I told her she could not file an application based on the same issues in the future.

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 \$1,727.00. It is due on the first day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$56.78. This amount is calculated as follows: \$1,727.00 x 12, divided by 365 days.
5. While the Landlord claimed that the Tenant paid a total of \$20,245.00 since the application was filed, the Tenant claimed it was \$20,905.00. The Landlord accepted the Tenant's claim.
6. The rent arrears owing to November 30, 2023 are \$14,858.00.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$1,550.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
9. Interest on the rent deposit, in the amount of \$218.49 is owing to the Tenant for the period from June 1, 2015 to November 7, 2023.

Relief from Eviction

10. The Tenant has resided in the three-bedroom home since June 2015, and testified that she fell into arrears because of maintenance issues which caused an issue at work and impacted her health.
11. The Tenant lost her job in September 2023 and claims she is still waiting for employment insurance benefits, although she worked part-time for a few weeks and gained new full-time employment of \$70,000.00 annually, starting the week after the hearing.
12. The Tenant has not made any payments to the Landlord since July 2023 despite earning about \$1,100.00 monthly from the Ontario Disability Support Program in August and September 2023, and \$2,500.00 from part-time employment in October 2023. The Tenant also has an adult nephew who resides in the unit, earns approximately \$4,000.00 a month but has several expenses.
13. The Tenant proposed to pay \$3,600.00 to the Landlord immediately, and \$400.00 on the 20th day of each month in addition to the monthly rent on the first.
14. The Tenant's failure to make any payments to the Landlord since July 2023, further increasing the arrears, despite knowledge of the upcoming hearing and receipt of income from the Ontario Disability Support Program, leads me to the conclusion that the Tenant will not comply with a conditional order. The Tenant also failed to substantiate her claim about the new employment with income of \$70,000.00.
15. I have considered all 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 December 31, 2023 pursuant to subsection 83(1)(b) of the Act.

Additional time is given to the Tenant to secure alternative accommodation.

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:**
 - \$15,044.00 if the payment is made on or before November 30, 2023. See Schedule 1 for the calculation of the amount owing.

OR

- \$16,771.00 if the payment is made on or before December 31, 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 31, 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 31, 2023**
 5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$11,945.97. 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.
 6. The Tenant shall also pay the Landlord compensation of \$56.78 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 November 25, 2023, the Tenant will start to owe interest. This will be simple interest calculated from November 26, 2023 at 7.00% annually on the balance outstanding.
 8. If the unit is not vacated on or before December 31, 2023, then starting January 1, 2024, 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 January 1, 2024.

November 20, 2023

Date Issued

Jitewa Edu 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 July 1, 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	\$35,763.00
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$20,905.00
Total the Tenant must pay to continue the tenancy	\$15,044.00

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before December 31, 2023

Rent Owing To December 31, 2023	\$37,490.00
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$20,905.00
Total the Tenant must pay to continue the tenancy	\$16,771.00

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

Rent Owing To Hearing Date	\$34,433.46
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$20,905.00
Less the amount of the last month's rent deposit	- \$1,550.00
Less the amount of the interest on the last month's rent deposit	- \$218.49
Total amount owing to the Landlord	\$11,945.97
Plus daily compensation owing for each day of occupation starting November 8, 2023	\$56.78 (per day)