



Order under Section 69 Residential Tenancies Act, 2006

Citation: Pilco v Parmentier, 2023 ONLTB 74297

Date: 2023-11-16

File Number: LTB-L-045668-23

In the matter of: #3/3rd Fl, 1 EMERSON AVE
TORONTO ON M6H3S7

Between: Juan Pilco and Belma Pilco Landlords

And

Darren Parmentier Tenant

Juan Pilco and Belma Pilco (the 'Landlords') applied for an order to terminate the tenancy and evict Darren Parmentier (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on October 26, 2023.

The Landlord, Juan Pilco, the Landlords' Representative, Fernando Teixeira, and the Tenant attended the hearing.

Determinations:

Preliminary Issue – Adjournment Request

1. At the hearing, the Tenant requested an adjournment to serve on the Landlords and file with the Board a written description of issues the Tenant intends to raise under section 82 of the *Residential Tenancies Act, 2006* ("Act") and supporting evidence.
2. The Tenant acknowledged that the issues he intended to raise were ongoing and long outstanding. The Tenant submitted that he was not able to comply with the requirements under section 82 of the Act and Rule 19.4 of the Board's Rules of Procedure because he received the L1/L9 Information Update form on October 23, 2023 and did not have sufficient time to collect his evidence.
3. The Tenant was mailed the Notice of Hearing and application package on August 2, 2023. In my view, the Tenant had received ample notice of the hearing and therefore could have provided written notice and disclosure to the Landlords and the Board at least 7 days in advance of the hearing as required by section 82(2) of the Act and LTB Rule of Procedure 19.4. The fact that the Tenant received the L1/L9 Information Update form from the Landlord on October 23, 2023, is unrelated to the Tenant's disclosure obligations.

4. As such, the adjournment request was denied. The Tenant still has an opportunity bring his own application against the Landlords to address the issues he sought to raise at this hearing under section 82.
5. The Landlords served the Tenant with a valid Notice to End Tenancy Early for Nonpayment 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.
6. As of the hearing date, the Tenant was still in possession of the rental unit.
7. The lawful rent is \$1,100.00. It is due on the 1st day of each month.
8. Based on the Monthly rent, the daily rent/compensation is \$36.16. This amount is calculated as follows: \$1,100.00 x 12, divided by 365 days.
9. The Tenant has not made any payments since the application was filed.
10. The rent arrears owing to October 31, 2023 are \$12,390.00.
11. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
12. There is no last month's rent deposit.

Section 83 Considerations

13. 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 Landlords 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.
14. Section 83(3)(a) of the Act states that the Board must refuse to grant an eviction application where satisfied that "the landlord is in serious breach of the landlord's responsibilities under this Act or of any material covenant in the tenancy agreement". In order for this section to apply the breach must be significant in its impact on the Tenant and it must be ongoing as of the date of the hearing.
15. The Tenant testified that he has been experiencing ongoing harassment and coercion, complaints and arrests, infestation of pests, maintenance issues, and reduction of services.
16. The Landlords submitted that the Tenant never informed them of any repairs or maintenance issues.
17. Based on the evidence before me, I am not satisfied, on a balance of probabilities, that the Landlords are in serious breach of the Landlords' responsibility under the Act and that the breach is ongoing. The Tenant's testimony was vague and did not provide any specifics of the allegations or the current impact of the alleged breach.

18. The Tenant seeks an opportunity to preserve the tenancy and proposes paying the new rent that comes due and \$800.00 each month towards the arrears until the arrears are paid up. The Tenant indicated he had \$3,000.00 to pay the Landlords on the hearing date.
19. The Tenant testified that he stopped working in December of 2022 and regained employment in April 2023. The Tenant currently takes home approximately \$4,456.00 a month. The Tenant affirmed he received \$2,000.00 from EI each month from February 2023 to April 2023 when his employment began.
20. The Landlords seek a termination of the tenancy and submits that the Tenant has made no good faith payments since the N4 was served. Any further delays would prejudice the Landlords as the Landlords are semi-retired and rely on the rental income to cover the expenses of the rental unit.
21. The arrears are substantial. Despite a consistent income, the Tenant has not made any good faith payments to the Landlords. The Tenant acknowledged he had \$5,000.00 but was only willing to give the Landlords \$3,000.00. As a result, having considered all the circumstances of both parties, I find that a standard eviction order would be fair in the circumstances. There is no other occupant or dependants in the rental unit. Given the Tenant has \$5,000.00, the Tenant should have sufficient funds for first and last for another rental unit.

It is ordered that:

1. The tenancy between the Landlords 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 Landlords or to the LTB in trust:**
 - \$13,676.00 if the payment is made on or before November 27, 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 November 27, 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 November 27, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlords \$12,416.16. 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 Landlords compensation of \$36.16 per day for the use of the unit starting October 27, 2023 until the date the Tenant moves out of the unit.

7. If the Tenant does not pay the Landlords the full amount owing on or before November 27, 2023, the Tenant will start to owe interest. This will be simple interest calculated from November 28, 2023 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before November 27, 2023, then starting November 28, 2023, the Landlords 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 Landlords on or after November 28, 2023.

November 16, 2023

Date Issued

Vicky Liu

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 28, 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 27, 2023

Rent Owing To November 30, 2023	\$13,490.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlords 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 Landlords owe 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	\$13,676.00

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

Rent Owing To Hearing Date	\$12,230.16
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlords 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 Landlords owe 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 Landlords	\$12,416.16
Plus daily compensation owing for each day of occupation starting October 27, 2023	\$36.16 (per day)