



Order under Section 69 Residential Tenancies Act, 2006

Citation: Bartello v Dunbar, 2023 ONLTB 72852

Date: 2023-11-15

File Number: LTB-L-044666-23

In the matter of: 3174 Stockton Drive Ottawa
ON K1T1S3

Between: Jennifer (Lauren) Bartello Landlord

And

Brenda Dunbar and Jason Cheverier

Tenants

Jennifer (Lauren) Bartello (the 'Landlord') applied for an order to terminate the tenancy and evict Brenda Dunbar and Jason Cheverier (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on October 24, 2023.

The Landlord, the Landlord's legal representative, M. Blackie, and the Tenants Brenda Dunbar (D.B.) attended the hearing. The Tenants B.D. acknowledged having the authority to speak on behalf of the other named Tenant who is B.D's adult son.

Determinations:

1. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Nonpayment of Rent (N4 Notice). The Tenants 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 Tenants were still in possession of the rental unit.
3. The lawful rent is \$1,900.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$62.47. This amount is calculated as follows: \$1,900.00 x 12, divided by 365 days.
5. The Tenants have paid \$12,500.00 to the Landlord since the application was filed.
6. The rent arrears owing to October 31, 2023 are \$9,100.00.

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 \$1,900.00 from the Tenants 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 \$100.23 is owing to the Tenants for the period from March 9, 2020 to October 24, 2023.

Section 83 Considerations

10. The Tenants do not dispute the amount of arrears owing. B.D. testified that the arrears had accumulated due to an unexpected illness that caused her to take a leave from her employment in January 2023. She has since obtained part-time work.
11. B.D. stated that she has spoken with an intake worker from the Department of Social Services and indicated that upon receipt of this Order, an application for rent assistance will be processed. The Tenants have requested 60 days to obtain this funding.
12. The Tenants stated monthly income is approximately \$3,500.00 from various sources including her son's ODSP, child tax benefit, and B.D's part time employment. The Tenants' estimated expenses, inclusive of rent are \$2,800.00.
13. The Tenants live with a minor child aged 10 years.
14. The Landlord's legal representative stated that the Landlord extended multiple payment plan offers to the Tenants. These offers were not responded to by the Tenants.
15. The Landlord's legal representative stated that the Landlord is not a corporate entity and that the Landlord has depleted her personal savings, has extended her line of credit and has struggling to make the mortgage payments on the property as a result of the Tenants' failure to pay rent.
16. While we acknowledged the financial strain imposed on the Landlord as a result of the rent arrears, the Tenants have made significant efforts to clear the arrears since the filing of the application. The Tenants have also made efforts to apply for rent assistance through Social Services. Therefore, having considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), we find that it would not be unfair to postpone the eviction until December 31, 2023, 2023 pursuant to subsection 83(1)(b) of the Act.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants void this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**

- \$11,186.00 if the payment is made on or before November 30, 2023. See Schedule 1 for the calculation of the amount owing.

OR

- \$13,086.00 if the payment is made on or before December 31, 2023. See Schedule 1 for the calculation of the amount owing.
3. The Tenants may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenants have 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 Tenants may only make this motion once during the tenancy.
 4. **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 December 31, 2023**
 5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$6,885.05. 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 Tenants. See Schedule 1 for the calculation of the amount owing.
 6. The Tenants shall also pay the Landlord compensation of \$62.47 per day for the use of the unit starting October 25, 2023 until the date the Tenants moves out of the unit.
 7. If the Tenants do not pay the Landlord the full amount owing on or before December 31, 2023, the Tenants will start to owe interest. This will be simple interest calculated from January 1, 2024 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 15, 2023

Date Issued

Peter Nicholson

Member, Landlord and Tenant Board

Melissa Anjema

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 Tenants 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	\$23,500.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$12,500.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenants for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants are entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$11,186.00

B. Amount the Tenants 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	\$25,400.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$12,500.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenants for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants are entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$13,086.00

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

Rent Owing To Hearing Date	\$21,199.28
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Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$12,500.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$1,900.00
Less the amount of the interest on the last month's rent deposit	- \$100.23
Less the amount the Landlord owes the Tenants for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants are entitled to	- \$0.00
Total amount owing to the Landlord	\$6,885.05
Plus daily compensation owing for each day of occupation starting October 25, 2023	\$62.47 (per day)