



Order under Section 69 Residential Tenancies Act, 2006

Citation: Westwood Management International v Dhesi, 2023 ONLTB 73292

Date: 2023-11-10

File Number: LTB-L-039649-23

In the matter of: 515, 3400 RIVERSPRAY CRES MISSISSAUGA
ON L4Y3M5

Between: Westwood Management International Landlord

And

Pawanjit Kaur Dhesi and Lindsay Fabion Tenants Keddon

Westwood Management International (the 'Landlord') applied for an order to terminate the tenancy and evict Pawanjit Kaur Dhesi and Lindsay Fabion Keddon (the 'Tenants') because the Tenants did not pay the rent that the Tenants owes.

This application was heard by videoconference on September 14, 2023.

The Tenant, Lindsay Fabion, attended the hearing. The Landlord was represented at the hearing by Cathy Corsetti.

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 was still in possession of the rental unit.
3. The lawful rent is \$1,950.12. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$64.11. This amount is calculated as follows: \$1,950.12 x 12, divided by 365 days.
5. The Tenants has not made any payments since the application was filed.
6. The rent arrears owing to September 30, 2023 are \$15,363.16.

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 \$1,880.00 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 \$98.66 is owing to the Tenants for the period from February 1, 2021 to September 14, 2023.

Relief from Eviction

10. The Tenants do dispute the amount of rent arrears. The issue before the Board is whether it is appropriate to grant relief from eviction pursuant to s.83 of the *Residential Tenancies Act 2006*, (the 'Act').
11. According to s. 83 of the Act when the Board hears an application for an order evicting a tenant, the Board must consider whether there are any circumstances that support granting relief from eviction.
12. While the Tenant has not made any payments since the application has filed, he has recently provided the Landlord two cheques totally \$3,798.00 toward the rent arrears. He submits that he can pay balance of the rent arrears by December 31, 2023.
13. The Act is remedial legislation and the courts have determined that evicting a tenant is a remedy of last resort. In the cases of *Sutherland v. Lamontagne*, [2008] O.J. No. 5763 (Div. Ct.) and *Paderewski Society v. Ficyk*, [1998], the Divisional Court stated,

"To put somebody out of their home must, in my view, call for clear and compelling circumstances that it's no longer possible for the arrangement to continue."

14. I acknowledge eviction is a remedy of last resort, however it should be exercised when the tenancy is no longer viable. I find that to be the case in this instance.
15. The Tenant, Pawanjit Kaur Dhesi, has moved out of the rental unit. Unfortunately, for the remaining Tenant she does not have a job. She is currently on Ontario Works, however the money she receives is just enough to cover the rent and her monthly expenses. She does not have any money to put toward the arrears.
16. The arrears are substantial. Without plan to pay the arrears, I find it would be unfair to the Landlord to deny eviction.
17. Given the remedial nature of the Act, I find a delay in eviction to be appropriate. This would give the remaining Tenant time to find a new place to live that is within her budget.
18. I have considered all of 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.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants voids this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$19,449.40 if the payment is made on or before November 30, 2023. See Schedule 1 for the calculation of the amount owing.

OR

- \$21,399.52 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 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 Tenants may only make this motion once during the tenancy.
 4. **If the Tenants does 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 does not void the order, the Tenants shall pay to the Landlord \$12,517.92. 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 \$64.11 per day for the use of the unit starting September 15, 2023, until the date the Tenants moves out of the unit.
 7. If the Tenants does not pay the Landlord the full amount owing on or before November 21, 2023, the Tenants will start to owe interest. This will be simple interest calculated from November 22, 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 10, 2023

Date Issued

Bryan Delorenzi

Member, Landlord and Tenants 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	\$19,263.40
Application Filing Fee	\$186.00
Total the Tenants must pay to continue the tenancy	\$19,449.40

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	\$21,213.52
Application Filing Fee	\$186.00
Total the Tenants must pay to continue the tenancy	\$21,399.52

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

Rent Owing To Hearing Date	\$14,310.58
Application Filing Fee	\$186.00
Less the amount of the last month's rent deposit	- \$1,880.00
Less the amount of the interest on the last month's rent deposit	- \$98.66
Total amount owing to the Landlord	\$12,517.92
Plus daily compensation owing for each day of occupation starting September 15, 2023	\$64.11 (per day)