



Order under Section 69 Residential Tenancies Act, 2006

Citation: Durham Region Non-Profit Housing Corporation v Ojo, 2023 ONLTB 73073

Date: 2023-11-10

File Number: LTB-L-043739-23

In the matter of: 03, 769 WILSON RD N
OSHAWA ON L1G7W3

Between: Durham Region Non-Profit Housing Corporation Landlord

And

Joshua Ojo
Modupeola Ojo Tenants

Durham Region Non-Profit Housing Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Joshua Ojo ('J.O') and Modupeola Ojo ('M.O') (the 'Tenants') because the Tenants did not pay the rent that the Tenants owes.

This application was heard by videoconference on October 25, 2023. The Landlord's agent, A. Herscheid, and the Tenants attended the hearing.

Determinations:

Preliminary Issue: Proper Tenants Named in the Application:

1. During the hearing, M.O submitted that she was no longer living in the rental unit. M.O stated that she moved out of the rental unit sometime in February 2023, however, did not notify the Landlord in writing that she had done so. It was not contested that M.O informed the Landlord after the L1 application was filed that she had vacated the rental unit and that J.O was still residing in the rental unit. There was also no dispute that this a joint tenancy between the two tenants.
2. As the Landlord was not notified until after the application was filed that M.O moved out, we find that the Board has jurisdiction to hold both tenants liable for the rent. As such, the application remains unchanged.

L1 Application:

3. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Non-payment 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.
4. As of the hearing date, the Tenants was still in possession of the rental unit.

5. The lawful rent is \$1,481.00. It is due on the 1st day of each month.
6. Based on the Monthly rent, the daily rent/compensation is \$48.69. This amount is calculated as follows: \$1,481.00 x 12, divided by 365 days.
7. The Tenants has paid \$4,629.00 to the Landlord since the application was filed.
8. The parties agree that the rent arrears owing to October 31, 2023 are \$5,738.00.
9. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
10. The Landlord collected a rent deposit of \$1,445.14 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.
11. Interest on the rent deposit, in the amount of \$29.50 is owing to the Tenants for the period from January 1, 2023 to October 25, 2023.

Relief from Eviction:

12. We 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 Tenants and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
13. As already stated, M.O testified that she had notified the Landlord that she moved out of the rental unit in June 2023, alongside her four adult children. As the sole income source of the family, she expressed her reluctance to propose a payment plan due to her limited ODSP income and part-time job. J.O testified that he currently resides in the unit and is unemployed, with no income to cover the monthly rent.
14. Although he expressed his intent to secure employment, we must consider the evidence as of the date of the hearing, which is that the remaining Tenant is unemployed.
15. Based on the evidence, it would appear that this tenancy is no longer viable. The Tenant living in the rental unit is not working and could not propose a reasonable payment plan to pay back the Landlord the arrears that the Tenants owe.
16. However, the Tenants will still have an opportunity to void the order. If they are able to source the funds to payback the Landlord the rent they owe, they would be permitted to stay. Furthermore, the Tenants shall receive some additional time due to the inevitable delay in the Landlord enforcing this order through the Sheriff's office.

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:**

- \$7,405.00 if the payment is made on or before November 21, 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 November 21, 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 November 21, 2023**
 5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$4,185.61. 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 \$48.69 per day for the use of the unit starting October 26, 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 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 November 21, 2023, then starting November 22, 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 November 22, 2023.

November 10, 2023

Date Issued

Member, Landlord and Tenant Board

Curtis Begg

Joy Xiao

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 22, 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 21, 2023

Rent Owing To November 30, 2023	\$11,848.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$4,629.00
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	\$7,405.00

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

Rent Owing To Hearing Date	\$10,103.25
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$4,629.00
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	- \$1,445.14
Less the amount of the interest on the last month's rent deposit	- \$29.50
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	\$4,185.61
Plus daily compensation owing for each day of occupation starting October 26, 2023	\$48.69 (per day)