



Order under Section 69 Residential Tenancies Act, 2006

Citation: Karimi v Montoya, 2023 ONLTB 72079

Date: 2023-11-09

File Number: LTB-L-046837-22

In the matter of: 204, 1 CENTRE ST W
RICHMOND HILL ON L4C3P3

Between: Farah Karimi Landlords
2308355 Ontario Inc.

And

Marta Montoya Tenant

Farah Karimi and 2308355 Ontario Inc. (the 'Landlords') applied for an order to terminate the tenancy and evict Marta Montoya (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on October 25, 2023.

The Landlord Farah Karim and the Landlords' Legal Representative Azin Ghorbankhani and the Tenant Marta Montoya attended the hearing.

Determinations:

1. On consent of the parties, the application is amended to remove David Montoya as a Tenant.
2. 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.
3. As of the hearing date, the Tenant was still in possession of the rental unit.
4. The lawful rent was \$1,614.37 and it increased to \$1,654.73 on September 1, 2023. It is due on the 1st day of each month.
5. Based on the monthly rent, the daily rent/compensation is \$54.40. This amount is calculated as follows: $\$1,654.73 \times 12$, divided by 365 days.

6. The Tenant has paid \$3,228.74 to the Landlord since the application was filed.
7. The rent arrears owing to October 31, 2023 are \$25,110.64.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlord purchased the building in 2016 and conceded the Tenant paid a rent deposit. As such, we find the Landlord is holding a rent deposit in the amount of \$1654.73 which is equivalent to one month's rent.
10. The Landlord sought termination of the tenancy citing the financial stress the rent arrears have had on her. The Landlord submitted several attempts were made to negotiate a payment agreement with the Tenant however they did not succeed.
11. The Tenant stated she lives with her 21-year-old daughter. Her evidence was she lost her job and due to medical issues began receiving ODSP payments as income. The Tenant stated she has recently started a new job and requested a payment plan that would require over 70 months to complete.
12. The income the Tenant claims she is currently earning would allow for a significantly shorter repayment term, yet this was not suggested by the Tenant. We did not find the Tenant's proposal to be reasonable given the Landlords' deteriorating financial circumstances.
13. The Tenant stated she has been looking for another place to live but has not succeeded. She stated she would need 30 days to find alternative living arrangements if the Landlords' application is granted.
14. We 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 November 30, 2023, pursuant to subsection 83(1)(b) of the Act. This extra time amounts to more than 30 days from the hearing date and recognizes the difficulty the Tenant may have in finding a new home in the current rental market.

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:**
 - \$26,951.37 if the payment is made on or before November 30, 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 30, 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 30, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$23,347.18. 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 \$54.40 per day for the use of the unit starting October 26, 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 30, 2023, the Tenant will start to owe interest. This will be simple interest calculated from December 1, 2023 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before November 30, 2023, then starting December 1, 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 December 1, 2023.

November 9, 2023

Date Issued

John Cashmore
Member, Landlord and Tenant Board

Brenda Mercer
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 June 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	\$29,994.11
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$3,228.74
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes 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	\$26,951.37

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

Rent Owing To Hearing Date	\$28,044.65
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$3,228.74
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	- \$1,654.73
Less the amount of the interest on the last month's rent deposit	- \$0.00
Less the amount the Landlord owes 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 Landlord	\$23,347.18
Plus daily compensation owing for each day of occupation starting October 26, 2023	\$54.40 (per day)

2023 ONLTB 72079 (CanLII)