



Order under Section 69 Residential Tenancies Act, 2006

Citation: Podzorski v Shay, 2023 ONLTB 73500

Date: 2023-11-07

File Number: LTB-L-034063-23

In the matter of: 339 EVERGLADE CRES LONDON
ON N6H4M7

Between: Pamela Podzorski and Courtney Pitre Landlords

And

Angel Shay and Nate Heskett Tenants

Pamela Podzorski and Courtney Pitre (the 'Landlords') applied for an order to terminate the tenancy and evict Angel Shay and Nate Heskett (the 'Tenants') because the Tenant did not pay the rent that the Tenants owe.

This application was heard by videoconference on September 13, 2023.

Only the Landlords, the Landlords' Legal Representative, Robert Rose, and the Tenants' Legal Representative, Hugh Mai, attended the hearing.

Adjournment Request

1. The Tenants' legal representative requested an adjournment to have this application combined to be heard with an L2 application involving the parties that had already been heard and adjourned with a seized Member.
2. The Landlords' legal representative opposed this request.
3. I considered the submissions of both parties and declined to grant the adjournment on the basis that there was not sufficient reason to warrant having these two applications combined to be heard at the same time. It is unlikely that there could be inconsistent findings if not heard together.

Determinations:

1. The Landlords 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 \$2,400.00. It is due on the 15th day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$78.90. This amount is calculated as follows: \$2,400.00 x 12, divided by 365 days.
5. The Tenants have not made any payments since the application was filed.
6. The rent arrears owing to September 14, 2023 are \$14,400.00.
7. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlords collected a rent deposit of \$2,400.00 from the Tenants and this deposit is still being held by the Landlords. 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 \$39.78 is owing to the Tenant for the period from January 15, 2023 to September 13, 2023.

Relief from eviction

10. The Tenants' legal representative stated that the amount of the rental arrears was not in dispute and provided that the Tenant, Nate Heskett, had lost his job and this was the reason for the rental arrears. The only issue before me was relief from eviction under section 83 of the Act.
11. The Tenants request that the eviction be postponed. The Landlord's opposed this request as the Landlords are facing significant financial hardship from the Tenants not paying their rent every month.
12. The Tenants' legal representative stated that the Tenants were expecting to come into an unknown amount of money from an unnamed class-action lawsuit. The Tenants are not sure when they will receive this money, but it was suggested that it should be on or before October 31, 2023.
13. The arrears are substantial, and the Landlords is incurring debt due to the Tenants' nonpayment of rent. The Tenants have not made any payments since the application was filed.
14. 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 Landlord 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. Given that the Tenants believe that they could pay off all the arrears by October 31, 2023, which has passed, I do not find it appropriate to further delay eviction past the date issued in this order.

It is ordered that:

1. The tenancy between the Landlords 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 Landlords or to the LTB in trust:**
 - \$19,386.00 if the payment is made on or before November 14, 2023. See Schedule 1 for the calculation of the amount owing.

OR

- \$21,786.00 if the payment is made on or before November 18, 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 November 18, 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 18, 2023**
 5. If the Tenants do not void the order, the Tenants shall pay to the Landlords \$12,113.22. 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 Landlords owe 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 Landlords compensation of \$78.90 per day for the use of the unit starting September 14, 2023 until the date the Tenant moves out of the unit.

7. If the Tenants do not pay the Landlords the full amount owing on or before November 18, 2023, the Tenants will start to owe interest. This will be simple interest calculated from November 19, 2023 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before November 18, 2023, then starting November 19, 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 19, 2023.

November 7, 2023

Date Issued

Colin Elsby

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 19, 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 14, 2023

Rent Owing To November 14, 2023	\$19,200.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlords owe 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	\$19,386.00

B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before November 18, 2023

Rent Owing To December 14, 2023	\$21,600.00
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 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	\$21,786.00

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

Rent Owing To Hearing Date	\$14,367.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlords since the application was filed	- \$0.00
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	- \$2,400.00
Less the amount of the interest on the last month's rent deposit	- \$39.78

Less the amount the Landlords owe 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 Landlords	\$12,113.22
Plus daily compensation owing for each day of occupation starting September 14, 2023	\$78.90 (per day)