



**Order under Section 69
Residential Tenancies Act, 2006**

Citation: Bechthold v Myers, 2023 ONLTB 70943

Date: 2023-11-07

File Number: LTB-L-018343-23

In the matter of: 1738 SNYDERS RD E
PETERSBURG ON N0B2H0

Between: Elaine Bechthold Landlords
Steve Bechthold

and

William Myers Tenants
Elisa Myers

Elaine Bechthold and Steve Bechthold (the 'Landlords') applied for an order to terminate the tenancy and evict William Myers and Elisa Myers (the 'Tenants') because the Tenants have been persistently late in paying the Tenants' rent.

The Landlords also claimed compensation for each day the Tenants remained in the unit after the termination date.

This application was heard by videoconference on October 18, 2023.

The Landlords and the Tenants attended the hearing. The Tenants declined the opportunity to speak with Duty Counsel prior to the start of the proceeding.

Determinations:

1. As explained below, the Landlords have proven on a balance of probabilities the grounds for termination of the tenancy. However, for the reasons set out below we find that it would not be unfair to grant relief from eviction subject to the conditions in this order.
2. The Tenants were in possession of the rental unit on the date the application was filed.

Tenants Have Persistently Paid Rent Late

3. On February 16, 2023, the Landlords gave the Tenants an N8 notice of termination. The N8 Notice alleges the Tenants paid rent late each month commencing February 2018 through to and including January 2019, March 2019, April 2019, July to September 2019, December 2019 to May 2020, July 2020 to February 2021, April 2021, May 2021, November 2021 to January 2022, and September to December 2022 and that no rent had been paid for January or February 2023 as of February 11, 2023.
4. Following service of the N8 Notice, the Tenants paid rent for January and February 2023.

5. It was uncontested the rent is due on the 1st day of each month and that rent was paid late 40 times over 59 months.
6. As a result, we find the Tenants persistently failed to pay the rent on the date it was due.

Section 83 Considerations

7. The Landlords sought an order for eviction. The Tenants requested an opportunity to preserve their tenancy. Such relief would take the form of an order that the Tenants pay their rent on time failing which the Landlords could apply for eviction in accordance with section 78 of *Residential Tenancies Act, 2006* (the 'Act').
8. The Landlords testified it has been frustrating not knowing when rent is coming. The Landlords testified they receive communications from the Tenants promising that rent will be paid, providing excuses, and have electronic funds transfers cancelled.
9. The Landlords also testified that when rent is late, they must use their savings to pay costs associated with the property. That said, the Landlords admitted they do not have a mortgage on the property but costs still include property tax and insurance.
10. The male Landlord also testified he has recently experienced significant health issues and that the circumstances surrounding rental payments have increased stress in his life.
11. The Tenants reside in the rental unit and a minor child of the female tenant also lives with them part-time.
12. Since serving the N8 Notice the Tenants continued to pay rent late and stopped paying any rent after March 2023.
13. The Tenants testified they have faced employment and health hardships over the past few years but testified they now both have stable incomes and that their incomes exceed their expenses. The male Tenant also testified to some savings. The Tenants are just returning to financial stability and were concerned they would not be able to find and/or afford other accommodations on short notice given the requirements for first and last month's rent and storage.
14. The Landlords were concerned the Tenants could not afford the rent and submitted rent was more than 30% of the Tenants' income and that rent would be increasing in the new year. Based on the evidence before us the Tenants' rent is less than 30% of their income and no evidence was presented the Tenants are not earning the income to which they testified.
15. We have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act. Given the evidence supports finding the Tenants can afford the rent, they would have difficulty immediately finding other accommodation, the rental unit is also the part-time residence of a minor child, and the Landlords will be able to bring an *ex parte* application for eviction if the Tenants do not pay rent on time, we find it would not be unfair to grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.
16. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

It is ordered that:

1. The tenancy between the Landlords and the Tenants continues if the Tenants meet the conditions set out below.
2. The Tenants shall pay the Landlords the lawful rent in full on or before the first of each month for each month beginning December 1, 2023, and continuing through to and including November 1, 2024.
3. If the Tenants fail to comply with the conditions set out in paragraph 2 of this order, the Landlords may apply under section 78 of the Act for an order terminating the tenancy and evicting the Tenants. The Landlords must make the application within 30 days of a breach of a condition. This application is made to the LTB without notice to the Tenants.
4. The Tenants shall pay to the Landlords \$186.00 for the cost of filing the application.
5. 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.

November 7, 2023

Date Issued

Elena Jacob

Member, Landlord and Tenant Board

Rebecca Case

Vice Chair, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.