



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

Citation: Huynh v Emmanuel, 2023 ONLTB 71184

Date: 2023-10-30

File Number: LTB-L-022962-23

In the matter of: 1012, 25 FOUR WINDS DR
NORTH YORK ON M3J1K8

Between: Kathy Huynh
Ty Xua Huynh
Landlords

And

Crystal Emmanuel
Andrew Emmanuel
Tenants

Kathy Huynh and Ty Xua Huynh (the 'Landlords') applied for an order to terminate the tenancy and evict Crystal Emmanuel and Andrew Emmanuel (the 'Tenants') because:

- the Tenants have been persistently late in paying the Tenants' rent.

This application was heard by videoconference on October 19, 2023.

The Landlords' Legal Representative, Bryan Rubin, and the Tenant, Crystal Emmanuel attended the hearing.

Determinations:

1. As explained below, the Landlords have proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, for the reasons that follow I am satisfied on a balance of probabilities that the Tenants persistently paid their rent late.
2. The Tenants were in possession of the rental unit on the date the application was filed.

N8 Notice of Termination

3. On March 16, 2023, the Landlords gave the Tenants an N8 notice of termination. The notice of termination contains the following allegation: that the Tenants persistently paid their rent late.

Persistently Late

4. The Tenants have persistently failed to pay the rent on the date it was due. The rent is due on the 3rd day of each month. The rent has been paid late 6 times in the past 12 months, between April 2022 and March 2023.
5. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
6. There is no last month's rent deposit.

Relief from eviction

7. The Tenants do not dispute that the rent has been paid late for the period alleged by the Landlords. The Tenant, Crystal Emmanuel (CE), testified the reason the Tenants have been late in paying their rent is because her father, the other Tenant, Andrew Emmanuel is a school bus driver and he does not get paid when school is over. In addition, her mother was not working for a period of time and this contributed to the Tenants falling behind. CE testified that she is a Canadian Olympic athlete for track and field. Her income gets paid by Athletics Canada every other month. CE testified that she got injured twice and that played a part in her mental and physical health. CE testified that she had to dedicate her time on her recovery, which meant she was not working the same hours. More recently both parents are working, and the Tenants are doing better financially. When asked if the Tenants would ensure that the rent would be paid on time going forward the Tenants testified that they could pay on time and have been since May 3, 2023. The Tenants requested relief from eviction so they can have another chance to continue the tenancy.
8. The Landlords opposed the Tenants' request for relief as the Tenants have been persistently late in paying the rent. The Landlords' Legal Representative submitted that the Landlords have tried on many occasions to be flexible and work with the Tenants for quite some time. However, the Tenants continue to be persistently late and as a result it is causing financial hardship on the Landlords as they are small-scale Landlords with a mortgage, taxes and insurance to pay. When the Tenants do not pay on time it puts the Landlords at risk of losing their house.
9. 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 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. Given that the Tenants recently have made an effort to pay the rent on time and the Tenants' willingness to shoulder the responsibility for ensuring rent is paid in full and on time, I am satisfied that it would not be unfair if relief was granted subject to the requirement to pay rent on time and in full for a reasonable period into the future.

It is ordered that:

1. The Tenants shall pay the Landlords the monthly rent for the months of November 2023 to October 2024 in full and by the 3rd day of each corresponding month.
2. If the Tenants fail to comply with the condition set out in paragraph 1 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 Tenant.
3. The Tenants shall pay to the Landlords \$186.00 for the cost of filing the application.
4. If the Tenants do not pay the Landlords the full amount owing on or before November 10, 2023, the Tenants will start to owe interest. This will be simple interest calculated from November 11, 2023 at 7.00% annually on the balance outstanding.

October 30, 2023
Date Issued

Teresa Hunt
Member, 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.