



Order under Section 69 Residential Tenancies Act, 2006

Citation: Starlight Canadian Residential Growth Fund v Balizs, 2023 ONLTB 70587

Date: 2023-10-26

File Number: LTB-L-002237-23

In the matter of: 0603, 580 THE EAST MALL
ETOBICOKE ON M9B4A7

Between: Starlight Canadian Residential Growth Fund Landlord

And

Noemi Balizs, Yeheya Ahmmed and Zsolt Balizs Tenants

Starlight Canadian Residential Growth Fund (the 'Landlord') applied for an order to terminate the tenancy and evict Noemi Balizs, Yeheya Ahmmed and Zsolt Balizs (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on August 29, 2023.

The Landlord's Legal Representative, Sharon Harris, and the Tenant, Noemi Balizs, attended the hearing.

Determinations:

1. The Landlord 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 \$2,482.11. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$81.60. This amount is calculated as follows: \$2,482.11 x 12, divided by 365 days.
5. The Tenants have paid \$8,370.00 to the Landlord since the application was filed.

6. The rent arrears owing to August 31, 2023 are \$12,323.20.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$2,431.58 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.
9. Interest on the rent deposit, in the amount of \$40.14 is owing to the Tenants for the period from January 1, 2023 to August 29, 2023.

Relief from Eviction

10. The Tenants do not contest the total amount claimed in the Landlord's application. The Tenants state that a lump-sum payment had been made a few days prior to this hearing via online banking. The Landlord's Legal Representative could not confirm this.
11. The Tenants submitted that they would like to stay in the unit and proposed a payment plan to pay back the arrears owed to the Landlord and continue the tenancy. The plan proposed by the Tenants was \$1,057.00 on or before the 20th of each month, for 9 months.
12. The monthly rent going forward would also follow the plan and this would be due and payable on the 1st day of each month for the total 9-month payment plan.
13. The Landlord's Legal Representative submitted that the Landlord is seeking the standard 11-day voidable order. The Tenants have been behind on rent for some time and previous attempts of repayment have not been followed.
14. I canvassed the Tenants regarding their monthly income and expenses to ascertain whether the payment plan was feasible for the Tenants and to make sure they could sustain the tenancy and payback the arrears owed to the Landlord. After hearing the submissions, I was satisfied that the tenancy is viable and the plan is feasible.
15. In my view, it would not be unfair to provide conditional relief from eviction in the form of a repayment plan if there is realistic repayment plan that is not unduly prejudicial to the Landlord. Such a plan would require the Tenants to make payments that would stop the arrears from escalating and restore the tenancy to good standing within a reasonable period of time. Such a plan would also provide the Landlord with recourse if the Tenants cannot abide by the terms of repayment.
16. 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. The Landlord did not adduce any evidence that the payment plan would occasion prejudice on them. Given that I am satisfied that the

tenancy is feasible, the Landlord ought to be able to recoup the arrears. If the Tenants fail to adhere to the terms of the plan, the Landlord may move without notice to the Tenants for termination of the tenancy and eviction.

It is ordered that:

1. The Tenants shall pay to the Landlord \$12,509.20, which represents the arrears of rent (\$12,323.20) and costs (\$186.00) outstanding for the period ending August 31, 2023.
2. The Tenants shall pay to the Landlord the amount set out in paragraph 1 in accordance with the following schedule:
 - a) The Tenants shall pay **\$1,057.00** on or before the **20th day of each month** for the periods including **November 20, 2023, to June 20, 2024** (8 months x \$1,057.00= \$8,456.00) as well as the lawful monthly rent due and payable on the 1st day of each month for these months.
 - b) On or before **July 20, 2024**, the Tenants shall make the final 9th payment of **\$1,053.20**. The Tenants shall also pay the lawful monthly rent that comes due on the 1st day of that month.
 - c) If the Tenants have made any payments towards the rent arrears since the date of the hearing, that amount shall be deducted from the overall outstanding amount. The payment schedule above shall remain unchanged until all arrears are paid in full.
 - d) If the Tenants have not done so already, the Tenants shall pay the lawful monthly rent for the months of September and October 2023 and the \$3,000.00 that was allegedly paid shortly before the hearing date on or before October 31, 2023.
3. If the Tenants fail to make any of the payments in accordance with paragraph 2, and by the dates required, then:

- a) The Landlord may apply under section 78 of the Act for an order terminating the tenancy and evicting the Tenants, and for the payment of any new arrears of rent and NSF charges not already ordered under paragraph 1 of this order. The Landlord must make the application within 30 days of a breach of a condition set out in paragraph 2 of this order.
- b) The balance owing under paragraph 1 of this order shall become payable on the day following the date of default. The monies owing shall bear at an interest rate of 7.00% per annum.

October 26, 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.