



Order under Section 78(6) Residential Tenancies Act, 2006

Citation: Ottawa Community Housing Corp. v Ndayisaba Inamasuku, 2023 ONLTB 71135

Date: 2023-10-25

File Number: LTB-L-042256-23

In the matter of: 402, 215 NEPEAN ST
OTTAWA ON K2P2K5

Between: Ottawa Community Housing Corp. Landlord

And

Francis Nadia Ndayisaba Inamasuku Tenant

Ottawa Community Housing Corp. (the 'Landlord') applied for an order to terminate the tenancy and evict Francis Nadia Ndayisaba Inamasuku (the 'Tenant') and for an order to have the Tenant pay the rent they owe because the Tenant failed to meet a condition specified in the order issued by the Board on January 31, 2023 with respect to application LTB-L-025784-22.

A hearing was held by videoconference on October 18, 2023 to consider this application.

The Landlord's legal agent, S. Furlotte, and the Tenant attended the hearing. The Tenant had an opportunity to speak with Tenant Duty Counsel before the hearing.

Determinations:

1. The order provides that the Landlord can apply to the LTB under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') without notice to the Tenant to terminate the tenancy and evict the Tenant if the Tenant does not meet certain conditions in the order.
2. This application was sent to a hearing to clarify who is the applicant. The name of the Landlord in the initial order was different from the one in the L4 application. At the hearing, the Landlord's agent clarified that the name in the initial order was in French, but she filed the application in English. She confirmed that the Landlord was Ottawa Community Housing Corp.

The breach

3. The parties agree that the Tenant did not meet the following conditions specified in the order:

**The Tenant has not paid the rent for May 2023 on or before the 1st of the month.
The Tenant has not paid \$450.00 by May 28, 2023**

4. The application was filed within 30 days of the breach.

Arrears owing

5. The previous application includes a request for an order for the payment of arrears of rent and the order requires the Tenant to make payments by specific due dates. Accordingly, in addition to eviction, the Landlord is entitled to request an order for the payment of arrears owing.
6. The Tenant was ordered to pay \$8,111.00 for rent arrears and the application filing fee in the previous order. The amount that is still owing from that order is \$4,324.00 and that amount is included in this order. This order replaces order LTB-L-025784-22.
7. Since the date of the previous order, the Tenant has failed to pay the full rent that became owing for the period from February 1, 2023 to October 18, 2023.

Section 83 considerations

8. 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.
9. The Tenant testified that he accumulated a lot of debt since 2022 and thought he could handle it on his own as the only one contributing to the household income. However, his wife is now employed. The Tenant proposed a repayment plan of \$1,000.00 on the 20th of each month until the arrears are paid in full. The Tenant testified to his household income and expenses. He also stated he has two children aged 8 and 5. This is a five-year tenancy.
10. The Landlord requested that the tenancy be terminated as the Tenant has made no payments since April 24, 2023.
11. Based on the foregoing, I find that it would not be unfair to grant relief from eviction subject to the conditions set out below. While the Tenant not paying anything towards the arrears since April 2023 is not a positive consideration, termination of the tenancy is a remedy of last resort. As the Tenant's testimony regarding the household income and expenses demonstrates that he can adhere to this proposed repayment plan, I find he should be given another opportunity to preserve the tenancy.

It is ordered that:

1. Order LTB-L-025784-22 issued on January 31, 2023 is cancelled and replaced with the following:
2. The Tenant shall pay to the Landlord \$14,239.00, which represents the arrears of rent and the application filing fee outstanding for the period ending October 31, 2023.
3. The Landlord’s application for eviction of the Tenant is denied on the condition that:
 - (a) The Tenant shall make the following payments to the Landlord in respect of the monies owing under paragraph 1 of this order:

Date Payment Due	Amount of Payment
November 20, 2023	\$1,000.00 (costs and arrears)
December 20, 2023	\$1,000.00 (arrears)
January 20, 2024	\$1,000.00 (arrears)
February 20, 2024	\$1,000.00 (arrears)
March 20, 2024	\$1,000.00 (arrears)
April 20, 2024	\$1,000.00 (arrears)
May 20, 2024	\$1,000.00 (arrears)
June 20, 2024	\$1,000.00 (arrears)
July 20, 2024	\$1,000.00 (arrears)
August 20, 2024	\$1,000.00 (arrears)
September 20, 2024	\$1,000.00 (arrears)
October 20, 2024	\$1,000.00 (arrears)
November 20, 2024	\$1,000.00 (arrears)
December 20, 2024	\$1,000.00 (arrears)

January 20, 2025	\$239.00 (arrears)
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- (b) Commencing November 1, 2023, the Tenant shall also pay the Landlord the lawful rent in full, on or before the first day of each corresponding month for which the Tenant is in the arrears described in paragraph 2.
4. If the Tenant fails to make any of the payments in accordance with paragraph 3, and by the dates required, then:
- (a) The Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenant, and for the payment of any new arrears of rent and NSF charges not already ordered under paragraph 2 of this order. The Landlord must make the application within 30 days of a breach of a condition set out in paragraph 3 of this order.
- (b) The balance owing under paragraph 2 of this order shall become payable on the day following the date of default. The monies owing shall bear interest at the post-judgment interest rate determined under subsection 207(7) of the Act.

October 25, 2023
Date Issued

15 Grosvenor Street, Ground Floor
Toronto ON M7A 2G6

Camille Tancioco
Member, Landlord and Tenant Board

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