



Order under Section 69 Residential Tenancies Act, 2006

Citation: Good News Community Homes v Fagan, 2023 ONLTB 70709

Date: 2023-10-20

File Number: LTB-L-078540-22

In the matter of: 47, 975 RAILTON AVE LONDON
ON N5V4R9

Between: Good News Community Homes Landlord

And

Kayla Fagan Tenant

Good News Community Homes (the 'Landlord') applied for an order to terminate the tenancy and evict Kayla Fagan (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

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

Only the Landlord's Legal Representative Robert Rose attended the hearing.

As of 2:06 p.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

Prior adjournments

1. The application was first scheduled to be heard on June 6, 2023. The Tenant was present at the hearing and spoke with Tenant Duty Counsel prior to the hearing. The Tenant disputed whether the amount of rent subsidy that she received between March and May 2022 was correct. Section 203 of the *Residential Tenancies Act, 2006* (Act) is clear that the Board does not have authority to make determinations or review decisions concerning eligibility for rent-geared-to-income assistance or the amount of geared-to-income-rent payable under the Act.

2. I seized myself of the matter and it was adjourned for 10 days in order for the Tenant to have time to speak with her Ontario Works worker about her subsidy and receive legal advice if needed. The Tenant stated that she could make a good faith payment of \$500.00 toward the arrears on June 7, 2023 and an interim order to that effect was issued in order to reduce the prejudice to the Landlord of the brief adjournment. The Tenant made the payment.
3. When the matter was called on June 16, 2023, the agreed-upon return date, the Tenant was not present. The Landlord's Legal Representative informed me that the Tenant was arrested at the rental unit late June 13, 2023 for unknown reasons. She did not answer the door on June 14, 2023. The matter was stood down while the Superintendent attended her unit and knocked on the door. She did not answer the door. Because it was unclear if the Tenant had been released from detention, the matter was adjourned again out of an abundance of caution to ensure that the Tenant had the opportunity to participate in the hearing. An interim order was issued that the Tenant was to pay rent as it came due (July 1, 2023 rent) until the matter returned before me on July 18, 2023, again in an attempt to reduce the prejudice to the Landlord of the delay. No payment was received.

The application

4. The Landlord served the Tenant with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenant 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.
5. As of the hearing date, the Tenant was still in possession of the rental unit.
6. Effective July 1, 2023, the lawful rent is \$1,017.00. It is due on the 1st day of each month.
7. Based on the Monthly rent, the daily rent/compensation is \$33.44. This amount is calculated as follows: $\$1,017.00 \times 12$, divided by 365 days.
8. The Tenant has paid \$500.00 to the Landlord since the application was filed.
9. The rent arrears owing to July 31, 2023 are \$3,841.00.
10. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
11. There is no last month's rent deposit.
12. The Landlord's Legal Representative informed me that he had confirmed that the Tenant was released from custody on June 14, 2023, the day after her arrest. She was not in custody on the day of this hearing, and the Superintendent has seen her at the rental complex.
13. He also informed me that the Landlord served disclosure on the Tenant, provided the notice of hearing, and provided the L1/L9 Update Sheet to the Tenant prior to this hearing to be certain that she had the required information to attend the hearing.

14. The Tenant ceased paying rent in April 2022, and then made no payments until the June 2023 payment of \$500.00 in compliance with the interim order.
15. The rental complex is social housing, and there is a high demand for the units.
16. The Landlord's Legal Representative stated that the Tenant had previously lived in the rental unit with children, but the Landlord verified that the children were taken into custody by the Children's Aid Society and were not returning to the rental unit. The Tenant is the only remaining occupant of the rental unit.
17. The Landlord's Legal Representative stated that prior to the first hearing, a letter was sent to the Tenant on May 31, 2023 inviting discussion of a payment plan, but that no agreement was reached with the Tenant.
18. 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. The Landlord has received one payment of \$500.00 since April 2022, and that was as a result of a Board interim order. The Landlord cannot be expected to wait further for payment, and it is also unfair to the large number of Tenants who require social housing to delay any further.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
2. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust (less any payments made since the date of the hearing):**
 - \$7,078.00 if the payment is made on or before October 31, 2023. See Schedule 1 for the calculation of the amount owing.
3. The Tenant may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenant has paid the full amount owing as ordered plus any additional rent that became due after October 31, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
4. **If the Tenant does not pay the amount required to void this order the Tenant must move out of the rental unit on or before October 31, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$3,611.92. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$33.44 per day for the use of the unit starting July 19, 2023 until the date the Tenant moves out of the unit.

7. If the Tenant does not pay the Landlord the full amount owing on or before October 31, 2023, the Tenant will start to owe interest. This will be simple interest calculated from November 1, 2023 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before October 31, 2023, then starting November 1, 2023, the Landlord 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 Landlord on or after November 1, 2023.

October 20, 2023

Date Issued

Margo den Haan

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 1, 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 Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before October 31, 2023

Rent Owing To October 31, 2023 (<i>less any payments made since the date of the hearing</i>)	\$7,392.00
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$500.00
Total the Tenant must pay to continue the tenancy (<i>less any payments made since the date of the hearing</i>)	\$7,078.00

B. Amount the Tenant must pay if the tenancy is terminated

Rent Owing To Hearing Date	\$3,925.92
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$500.00
Less the amount of the last month's rent deposit	- \$0.00
Less the amount of the interest on the last month's rent deposit	- \$0.00
Total amount owing to the Landlord	\$3,611.92
Plus daily compensation owing for each day of occupation starting July 19, 2023	\$33.44 (per day)