



Order under Section 69 Residential Tenancies Act, 2006

Citation: Johal v Da Silva Rivera, 2023 ONLTB 69425

Date: 2023-10-20

File Number: LTB-L-020130-23

In the matter of: 123 MCROBERTS AVENUE
BASEMENT APARTMENT
TORONTO ON M6E4P3

Between: Gurvinderjit Singh Johal Landlord

And

Joao Paulo Da Silva Rivera Tenant

Gurvinderjit Singh Johal (the 'Landlord') applied for an order to terminate the tenancy and evict Joao paulo Da silva rivera (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on September 25, 2023.

The Landlord's legal representative, Sameer Uppal, and the Landlord attended the hearing.

The Tenant also attended the hearing.

Determinations:

1. 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.
2. As of the hearing date, the Tenant was still in possession of the rental unit.

3. The lawful rent is \$1,300.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$42.74. This amount is calculated as follows: \$1,300.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to September 30, 2023 are \$11,700.00.
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 \$1,300.00 from the Tenant 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 \$48.53 is owing to the Tenant for the period from March 30, 2022 to September 25, 2023.
10. The position of the Landlord is that the Tenant has made no payment since the application was filed with the Board. The arrears are substantial, and the Landlord is a small Landlord. The Landlord is seeking an expedited order for eviction and arrears.
11. The position of the Tenant is that he lost his job in April 2023. As of the day of the hearing the Tenant is not employed and his sole source of income is Ontario Works in the amount of \$730.00.
12. The Tenant requested the Board deny the Landlord his request for expedited eviction and asked for an eviction date of October 31, 2023.
13. With the evidence before me I find the tenancy is not viable. The Tenant does not have sufficient income to pay his rent and therefore there is no repayment consideration before me to consider a repayment plan for relief of eviction.
14. Given the quantum of the arrears and the request from the Tenant for an October 31, 2023 eviction I am denying the Landlord his request for an expedited eviction order.
15. 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, including submissions from the Tenant that he does not have young children or any persons with special needs that the Board needs to consider living with them, and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

Landlord's legal representative Requested Cost

16. The Landlord's legal representative requested costs to cover legal expenses of the Landlord. I do not find any indication of bad faith on the part of the Tenant or that there was

an intent to unduly prolong the proceedings. I do not feel that an award of costs is justified in this situation and therefore the Landlord's legal representative request for costs is denied.

17. I have considered all of the evidence presented at the hearing and all of the oral testimony and although I may not have referred to each piece of evidence individually or referenced all of the testimony, I have considered it when making my determinations.
18. This order contains all reasons for the determinations and order made. No further reasons will be issued.

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:
 - \$13,186.00 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 \$10,305.97. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$42.74 per day for the use of the unit starting September 26, 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

Greg Brocanier

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	\$13,000.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total the Tenant must pay to continue the tenancy	\$13,186.00

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

Rent Owing To Hearing Date	\$11,468.50
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$1,300.00
Less the amount of the interest on the last month's rent deposit	- \$48.53
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlord	\$10,305.97
Plus daily compensation owing for each day of occupation starting September 26, 2023	\$42.74 (per day)