



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

Citation: DD Acquisitions Partnership v Feaver, 2023 ONLTB 67411

Date: 2023-10-11

File Number: LTB-L-048549-23

In the matter of: 1117, 37 JOHNSON ST
BARRIE ON L4M5C3

Between: DD Acquisitions Partnership and Suite Excel Collections Canada Inc. Landlord

And

Diana Feaver Tenant

DD Acquisitions Partnership and Suite Excel Collections Canada Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Diana Feaver (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

The Landlord also claimed charges related to NSF cheques.

This application was heard by videoconference on September 13, 2023.

The Landlord's representative, Krizia Hernandez and the Tenant attended the hearing.

Preliminary Issues:

1. There are two Tenants name on the N4 notice of termination and on the Application. They are Diana Fever and Thomas Dalbarco. The following issues prior to the commencement of the hearing as to the whereabouts of Thomas Delbarco.
2. The Tenant testified that Mr. Delbarco is listed on the lease as a co-signer to assist in securing the tenancy and he was never a Tenant and had not resided in the rental unit.
3. The Landlord verified the Tenant's submission that Mr. Delbarco was a co-signer and not a Tenant and agreed to amend the application to remove him as a Tenant. I find that based on the evidence before me, Mr. Delbarco has never occupied the rental unit and was never in possession of the rental unit. Accordingly, the Board lacks the jurisdiction to issue an order against him. If the Landlord wishes to see a judgement against this individual, they will have to do so in another court of competent jurisdiction.

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Determinations:

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. The lawful rent is \$1,545.56. It is due on the 1st day of each month.
7. Based on the Monthly rent, the daily rent/compensation is \$50.81. This amount is calculated as follows: $\$1,545.56 \times 12$, divided by 365 days.
8. The Tenant has paid \$2,045.00 to the Landlord since the application was filed.
9. The rent arrears owing to September 30, 2023 are \$5,682.67. The Tenant does not dispute the amount of arrears owing to the Landlord.
10. The Landlord is entitled to \$20.00 to reimburse the Landlord for administration charges and \$5.00 for bank fees the Landlord incurred as a result of 1 cheque given by or on behalf of the Tenant which was returned NSF.
11. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
12. The Landlord collected a rent deposit of \$1,509.42 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.
13. Interest on the rent deposit, in the amount of \$26.47 is owing to the Tenant for the period from January 1, 2023 to September 13, 2023.

Relief from Eviction

14. 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.
15. The Landlord's representative testified that they attempted to communicate with the Tenant regarding a repayment plan by sending letters when the N4 notice of termination was served and again when the L1 application was filed. In addition, monthly letters were sent to the Tenant. I am satisfied the Landlord met their obligation to attempt to negotiate a repayment plan with the Tenant.
16. The Landlord sought an eviction order based on the amount of arrears. The arrears were described as substantial with a few good faith payments made by the Tenant since the application was filed.

17. The Tenant wants to preserve the tenancy and avoid eviction. The Tenant testified that she is currently on LTD which was stopped from June 2023 to August 2023. Her LTD has since been reinstated and she is attempting to make payments to the Landlord. The Tenant requested a repayment plan as she has the ability to pay \$500.00 per month toward the arrears on top of her monthly rent.
18. Her LTD payment is approximately \$1429.00 per month and she received CPP disability in the amount of \$959.00. The Tenant admitted her monthly income only covers her monthly expenses and cannot even cover normal monthly rent let alone any arrears payments. However, her mother is able to provide \$500.00 per month toward the arrears in addition to her monthly disability payments. The Landlord opposed a repayment plan. The Tenant testified that it would take her a long time to find a new place to live based on her income as she would not be able to afford a new place.
19. Although the Landlord sought an order for eviction, I find that an order imposing the proposed payment plan would be less prejudicial to the Tenant than issuing an eviction order and the Tenant is afforded an opportunity to preserve their Tenancy and remain in the rental unit. In addition, the Landlord is provided with repayment of the arrears and an order for rent on time and in full.

It is ordered that:

1. The Tenant shall pay to the Landlord \$5,888.67 for arrears of rent up to September 30, 2023 and costs.
2. The Tenant shall pay to the Landlord the amount set out in paragraph 1 in accordance with the following schedule:
 - a) \$500.00 on or before the last day of each month from October 2023 to August 2024.
 - b) \$388.67 on or before September 30, 2024.
3. The Tenant shall pay the rent for October 2023 on or before October 18, 2023.
4. The Tenant shall also pay to the Landlord new rent on time and in full as it comes due and owing for the period November 1, 2023 to September 30, 2024, or until the arrears are paid in full, whichever date is earliest.
5. If the Tenants fails to make any one of the payments in accordance with this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenants to the Landlord pursuant to paragraph 1 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenants, apply to the LTB within 30 days of the Tenants breach pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenants and requiring that the Tenants pay any new arrears, NSF fees and related charges that became owing after September 30, 2023.

October 11, 2023

Date Issued

Camille Clyne

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.

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