



Order under Section 69 Residential Tenancies Act, 2006

Citation: McConkey-Kennelly v Kakekapetum, 2023 ONLTB 67235

Date: 2023-10-10

File Number: LTB-L-021044-23

In the matter of: 105, 122 CUMBERLAND ST S THUNDER
BAY ON P7B5R8

Between: Betty Mc Conkey-Kennelly Landlord

And

Carolene Kakekapetum Tenant

Betty McConkey-Kennelly (the 'Landlord') applied for an order to terminate the tenancy and evict Carolene Kakekapetum (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 Jennifer Fenton attended the hearing.

As of 2:25 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:

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 \$794.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$26.10. This amount is calculated as follows: \$794.00 x 12, divided by 365 days.

5. The Tenant has paid \$363.00 to the Landlord since the application was filed.
6. The rent arrears owing to July 31, 2023 are \$8,870.00.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. There is no last month's rent deposit.
9. The Landlord's Legal Representative stated that she had spoken recently with the Tenant, who was aware of the hearing. The Tenant support worker for the rental complex saw the Tenant the morning of the hearing and she was not unwell. The Legal Clinic is next door to her residential complex.
10. The Landlord's Legal Representative stated that the Tenant is supported by ODSP and has accessed social services in the past to assist with arrears of rent. She indicated that the Tenant avoids the property manager and tenant support worker, so it is not easy to speak with her.
11. Since the Tenant did not attend the hearing, I do not have benefit of her submissions on circumstances to consider with respect to an eviction.
12. The Landlord was amenable to a short delay on an order for eviction. Due to the date of this order, however, I am satisfied that the Tenant has had opportunity to explore resources and seek financial assistance if required. Further delay would be unfair to the Landlord as the Tenant has been aware of the possibility of an eviction since August 2022 when the N4 Notice was served.
13. 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.

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):**
 - \$11,438.00 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 \$8,731.80. 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 \$26.10 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 21, 2023, the Tenant will start to owe interest. This will be simple interest calculated from October 22, 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 10, 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>)	\$11,615.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$363.00
Total the Tenant must pay to continue the tenancy (<i>less any payments made since the date of the hearing</i>)	\$11,438.00

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

Rent Owing To Hearing Date	\$8,908.80
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$363.00
Total amount owing to the Landlord	\$8,731.80
Plus daily compensation owing for each day of occupation starting July 19, 2023	\$26.10 (per day)