



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

Citation: Sergio Tarantino v Flint, 2023 ONLTB 66904

Date: 2023-10-10

File Number: LTB-L-051813-23

In the matter of: 4, 442 HORNER
TORONTO ON M8W2B3

Between: Sergio Tarantino Landlord

And

Tyson Flint Tenants
Hailey Payne

Sergio Tarantino (the 'Landlord') applied for an order to terminate the tenancy and evict Tyson Flint and Hailey Payne (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on September 27, 2023.

The Landlord's Legal Representative, Howard Levenson, and the Tenants attended the hearing.

Determinations:

1. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Nonpayment of Rent (N4 Notice). The Tenants 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 Tenants were still in possession of the rental unit.
3. The lawful rent is \$1,373.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$45.14. This amount is calculated as follows: \$1,373.00 x 12, divided by 365 days.
5. The Tenants have paid \$2,640.00 to the Landlord since the application was filed.
6. The rent arrears owing to September 30, 2023 are \$5,598.00.
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 \$1,373.00 from the Tenants 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.

File Number: LTB-L-051813-23

9. Interest on the rent deposit, in the amount of \$25.39 is owing to the Tenants for the period from January 1, 2023 to September 27, 2023.
10. The Tenants requested that the Board impose a repayment plan that would allow them to preserve the tenancy. The proposed payment plan included a lumpsum payment of \$2,746.00 by October 1, 2023 and then monthly payments of \$500.00 towards the arrears.
11. The Landlord opposed the repayment plan proposed by the Tenants as the Landlord feels the Tenants would not be able to abide by the plan. The Landlord submitted that the Tenants have not made any payments since July 2023.
12. 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. While the Landlord requested eviction, I find that a repayment plan that will take 7 months to repay all of the arrears, to be reasonable in the circumstances. particularly since the Tenants are prepared to make a large lump sum payment in a timely manner. To reduce any potential prejudice for the Landlord, all payments will be subject to a section 78 clause.
13. The Tenants shall also be ordered to pay ongoing rent as it becomes due for the duration of the payment plan. Given the date of this order, the deadline for payment of October's rent is delayed to October 16, 2023.

It is ordered that:

1. The Tenants shall pay to the Landlord \$5,784.00, which represents arrears of rent up to September 30, 2023 (\$5,598.00), and costs (\$186.00).
2. The Tenants shall pay to the Landlord the amount set out in paragraph 1 in accordance with the following schedule:
 - \$2,746.00 on or before October 16, 2023.
 - \$500.00 on or before the 1st day of each month during the six-month period from November 1, 2023 to April 1, 2024.
 - \$38.00 on or before May 1, 2024.
3. The Tenants shall pay to the Landlord the rent for October 2023 on or before October 16, 2023.

4. The Tenants 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 May 1, 2024, or until the arrears are paid in full, whichever date is earliest.
5. If the Tenants fail to make any of the payments in accordance with paragraph 2, 3 or 4 of this order, then:

File Number: LTB-L-051813-23

- (a) The Landlord may apply under section 78 of the Act for an order terminating the tenancy and evicting the Tenants, and for the payment of any new arrears of rent and NSF charges not already ordered under paragraph 1 of this order. The Landlord must make the application within 30 days of a breach of a condition set out in paragraph 2, 3 and/or 4 of this order.
- (b) The balance owing under paragraph 1 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 10, 2023

Date Issued

Teresa Hunt

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.