



Order under Section 69 Residential Tenancies Act, 2006

Citation: Myriad Property Management Inc v Shelton, 2023 ONLTB 65034

Date: 2023-10-03

File Number: LTB-L-029773-23

In the matter of: 216, 130 JAMESON AVE
TORONTO ON M6K2Y2

Between: Myriad Property Management Inc Landlord

And

Philip Shelton and Hannah Enkel Tenants

Myriad Property Management Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Philip Shelton and Hannah Enkel (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on August 14, 2023.

The Landlord's Legal Representative Bryan Rubin, the Tenant Philip Shelton, and Tenant Support Maria Doumanas (a community social worker) attended the hearing. The Tenant spoke with Tenant Duty Counsel prior to the hearing.

Determinations:

1. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Non-payment 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 \$1,183.88. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$38.92. This amount is calculated as follows: \$1,183.88 x 12, divided by 365 days.
5. The Tenants have paid \$4,681.64 to the Landlord since the application was filed.
6. The parties agree that the rent arrears owing to August 31, 2023 are \$5,965.97.
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 \$1,149.30 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.

9. Interest on the rent deposit, in the amount of \$245.70 is owing to the Tenants for the period from October 1, 2010 to August 14, 2023.
10. The Landlord requested a standard order and submitted that based on the information provided by the Tenant about their income and expenses, the Tenants have insufficient income to afford the rental unit.
11. The Tenant testified that after speaking with Tenant Duty Counsel, he became aware for the first time of the possibility of assistance from the Rent Bank and would apply immediately.
12. He testified that his current monthly after-tax income is \$3,200.00. The main non-rent household expenses are insurance, groceries, and paying down debts. He testified that he and his partner had been in "survival mode" and that he had emailed the Landlord to attempt to reach an agreement, but this was not successful.
13. He stated that in the 13-year tenancy, this is the first time that there have been problems. He is employed as an artist doing light installations and his partner is unemployed but is looking for more stable employment that does not have a varying income as is the case with his current work.
14. The Tenants have two children, ages 2 and 5, who reside with them in the rental unit. He stated that his partner will be looking for part time work now that their oldest child is in kindergarten.

Relief from eviction

15. This is a long-term tenancy of 13 years. The Tenant's testimony was uncontradicted that this is the first time that they had experienced any difficulties.
16. The application was filed on April 12, 2023. The payments made by the Tenants totalling \$4,681.64 were made in May and July. The Tenant stated that now that Duty Counsel has advised him of potential assistance from the Rent Bank, he intends to pursue this. He also stated that the family income situation is likely to change with more stable employment and a second income. It appears that the Tenants are actively looking for ways to preserve the tenancy.
17. 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 postpone the eviction until November 14, 2023 pursuant to subsection 83(1)(b) of the Act.
18. This is three months from the date of the hearing, which will have afforded the Tenants an opportunity to explore options for preserving the tenancy. This also takes into account that the Tenants have 2 young children, and that time would be required to find a new school and child care arrangements.
19. Based on all of the circumstances, I find that the impact of an immediate eviction on this family would be significant. While the Landlord feels that the Tenants are unable to afford the unit, they are exploring options to do so, and I find that the prejudice to the Landlord of a short delay is less than the impact on the Tenants of losing their housing.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants void this order.
2. **The Tenants 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*):
 - \$8,519.73 if the payment is made on or before October 31, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 - \$9,703.61 if the payment is made on or before November 14, 2023. See Schedule 1 for the calculation of the amount owing.
3. The Tenants may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenants have paid the full amount owing as ordered plus any additional rent that became due after November 14, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.
4. **If the Tenants do not pay the amount required to void this order the Tenants must move out of the rental unit on or before November 14, 2023**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$4,117.97. 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 Tenants. See Schedule 1 for the calculation of the amount owing.
6. The Tenants shall also pay the Landlord compensation of \$38.92 per day for the use of the unit starting August 15, 2023 until the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before November 14, 2023, the Tenants will start to owe interest. This will be simple interest calculated from November 15, 2023 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before November 14, 2023, then starting November 15, 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 15, 2023.

October 3, 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 15, 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 Tenants 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>	\$13,015.37
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$4,681.64
Total the Tenants must pay to continue the tenancy <i>(less any payments made since the date of the hearing)</i>	\$8,519.73

B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before November 14, 2023

Rent Owing To November 30, 2023 <i>(less any payments made since the date of the hearing)</i>	\$14,199.25
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$4,681.64
Total the Tenants must pay to continue the tenancy <i>(less any payments made since the date of the hearing)</i>	\$9,703.61

C. Amount the Tenants must pay if the tenancy is terminated

Rent Owing To Hearing Date	\$10,008.61
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$4,681.64
Less the amount of the last month's rent deposit	- \$1,149.30
Less the amount of the interest on the last month's rent deposit	- \$245.70
Total amount owing to the Landlord	\$4,117.97
Plus daily compensation owing for each day of occupation starting August 15, 2023	\$38.92 (per day)