



Order under Section 69 Residential Tenancies Act, 2006

Citation: Srivastava v Lama, 2023 ONLTB 65006

Date: 2023-10-03

File Number: LTB-L-034403-23

In the matter of: 2907, 60 ABSOLUTE AVE
MISSISSAUGA ON L4Z0A9

Between: Sapna Srivastava Landlord

And

Nawang Lama Tenants
Karma T. Dolma

Sapna Srivastava (the 'Landlord') applied for an order to terminate the tenancy and evict Nawang Lama and Karma T. Dolma (the 'Tenants') because the Tenants did not pay the rent that the Tenants owes.

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

The Landlord, the Landlord's representative, Jorge Andres Steinmetz and the Tenants attended 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 was still in possession of the rental unit.
3. The lawful rent is \$2,200.00. It is due on the 11th day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$72.33. This amount is calculated as follows: \$2,200.00 x 12, divided by 365 days.
5. The Tenants have not made any payments since the application was filed.
6. The rent arrears owing to September 30, 2023 are \$29,000.00.
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 \$1,700.00 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.
9. Interest on the rent deposit, in the amount of \$283.81 is owing to the Tenants for the period from March 9, 2013 to September 13, 2023.

Relief from Eviction

10. 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 10, 2023 pursuant to subsection 83(1)(b) of the Act.
11. The Landlord's representative testified that they attempted to communicate with the Tenants regarding a repayment plan on several occasions when the Tenants fell into arrears. There was no response from the Tenants regarding the repayment of the arrears. I am satisfied the Landlord met their obligation to attempt to negotiate a repayment plan with the Tenants.
12. The Landlord sought an eviction order based on the arrears which were described as substantial with no payments made Tenants since the application was filed.
13. The Tenants wants to preserve the tenancy and avoid eviction. This has been a long tenancy which started over 10 years ago. The Tenants testified that they fell into arrears as there were employment issues. The Tenant, Nawang Lama (NL) testified that he started studying real estate and has attempted to work as a real estate agent but it has not been successful. His wife has been on CPP disability since 2015. He is currently unemployed and looking for work.
14. The arrears are substantial and based on the Tenants employment situation there does not appear to be a viable way to pay the arrears and continue the tenancy. The Tenants requested for "at least 3-5 months" to find a new place if they were to be evicted.
15. I find it would be unfair to grant the lengthy delay the Tenants requested. The Tenants' limited income suggest there is not viable way for the Tenants to pay the rent or the arrears in a reasonable amount of time. There are substantial rent arrears owing with no realistic plan for how to pay it back. Therefore, I find there is no realistic way to impose a payment plan since there is no evidence supporting how any repayment plan could be satisfied.
16. I do however find that delay is fair in the circumstances, so the Tenants can arrange their affairs and move, or pay off the arrears and void the eviction order if they are able.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants voids this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord:**

- \$31,386.00 if the payment is made on or before October 31, 2023. See Schedule 1 for the calculation of the amount owing.

OR

- \$33,586.00 if the payment is made on or before November 10, 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 has paid the full amount owing as ordered plus any additional rent that became due after November 10, 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 10, 2023**
 5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$25,942.48. 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 \$72.33 per day for the use of the unit starting September 14, 2023 until the date the Tenants moves out of the unit.
 7. If the Tenants does not pay the Landlord the full amount owing on or before November 10, 2023, the Tenants will start to owe interest. This will be simple interest calculated from November 11, 2023 at 7.00% annually on the balance outstanding.
 8. If the unit is not vacated on or before November 10, 2023, then starting November 11, 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 11, 2023.

October 3, 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.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on May 11, 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	\$31,200.00
Application Filing Fee	\$186.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$0.00
Total the Tenants must pay to continue the tenancy	\$31,386.00

B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before November 10, 2023

Rent Owing To November 30, 2023	\$33,400.00
Application Filing Fee	\$186.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$0.00
Total the Tenants must pay to continue the tenancy	\$33,586.00

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

Rent Owing To Hearing Date	\$27,740.29
Application Filing Fee	\$186.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$1,700.00
Less the amount of the interest on the last month's rent deposit	- \$283.81
Total amount owing to the Landlord	\$25,942.48
Plus daily compensation owing for each day of occupation starting September 14, 2023	\$72.33 (per day)