



Order under Section 69 Residential Tenancies Act, 2006

Citation: Su v Voloshchuk, 2023 ONLTB 64834

Date: 2023-10-03

File Number:
LTB-L-059724-23

In the matter of: 733, 68 Abell Street Toronto
Ontario M6J0B1

Between: Yan Su Landlord

And

Mykhajlo Voloshchuk Tenant

Yan Su (the 'Landlord') applied for an order to terminate the tenancy and evict Mykhajlo Voloshchuk (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

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

The Landlord, the Landlord's Agent, Lily Zeng ("LZ"), and the Tenant attended the hearing.

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 \$2,250.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$73.97. This amount is calculated as follows: \$2,250.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to September 30, 2023 are \$9,000.00.

7. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$2,250.00 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.
9. Interest on the rent deposit, in the amount of \$56.87 is owing to the Tenant for the period from September 11, 2022 to September 14, 2023.

Section 83 Considerations

10. The Tenant seeks an opportunity to preserve his tenancy. He submits that he is able to pay \$201.00 on the day of the hearing, \$1,000.00 towards the arrears each month starting October 2023 for a period of nine months, and his monthly rent on time and in full.
11. The Tenant testified that he fell into rent arrears because he had no income for a period of time as he was in-between seasonal work prior to June 2023. He commenced his current job on June 19, 2023. He had to work three weeks before his first paycheque in July 2023. His income, after taxes, is approximately \$6,800.00 a month. The Tenant asserts that his income could be more as there are weeks that he works more hours.
12. Based on his testimony, the Tenant's monthly expenses, inclusive of rent, is approximately \$5,280.00. In addition to his own expenses, the Tenant testified that he spent money assisting family members from Ukraine. The Tenant has no children or dependents.
13. The Tenant alleges that the Landlord has been harassing him by contacting his family, references, and employment about his arrears. The Tenant intends on filing his own T2 application to seek compensation.
14. The Landlord seeks to terminate the tenancy. LZ is the owner of the property and submits that the Tenant has been consistently late with rent and has not made any payments since May 2023. Numerous attempts to negotiate payments with the Tenant were unsuccessful.
15. LZ testified that the rental unit is her only property, and the rental income is used to support her parents and to pay for her student loan. Due to the lack of consistent payments, she is experiencing financial difficulties and may default on her loan.
16. 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.
17. The Landlord is a small non-corporate Landlord who relies on the rental income to pay the mortgage and living expenses. While the Tenant received employment income in the months leading up to the hearing, the Tenant has made no good faith payments since the

N4 Notice was served. Instead, he chose to help his family members and pay other expenses while the Landlord experienced financial difficulties.

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:**
 - \$11,451.00 if the payment is made on or before October 14, 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 14, 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 14, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$5,679.71. 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 Tenant. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$73.97 per day for the use of the unit starting September 15, 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 14, 2023, the Tenant will start to owe interest. This will be simple interest calculated from October 15, 2023 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before October 14, 2023, then starting October 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 October 15, 2023.

October 3, 2023

Date Issued

Vicky Liu
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 April 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 Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before October 14, 2023

Rent Owing To October 31, 2023	\$11,250.00
Application Filing Fee	\$201.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total the Tenant must pay to continue the tenancy	\$11,451.00

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

Rent Owing To Hearing Date	\$7,785.58
Application Filing Fee	\$201.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$2,250.00
Less the amount of the interest on the last month's rent deposit	- \$56.87
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlord	\$5,679.71
Plus daily compensation owing for each day of occupation starting September 15, 2023	\$73.97 (per day)