



Order under Section 69 Residential Tenancies Act, 2006

Citation: C. Valery Construction o/a Valery Properties v Gariepy, 2023 ONLTB 64996

Date: 2023-09-29

File Number: LTB-L-036590-23

In the matter of: 408, 2100 KING ST E
HAMILTON ON L8K6H6

Between: C. Valery Construction o/a Valery Properties Landlord

And

Ariel Gariepy and Jagr Melo Tenants

C. Valery Construction o/a Valery Properties (the 'Landlord') applied for an order to terminate the tenancy and evict Ariel Gariepy and Jagr Melo (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on September 14, 2023. The Landlord's agent, Tina Novak attended the hearing. The Tenant Ariel Gariepy attended the hearing on behalf of both Tenants. Lorraine Gariepy, the stepmother of Ariel Gariepy, attended the hearing as a support person for Ariel Gariepy.

At the outset of the hearing, Lorraine Gariepy requested an adjournment which was not on consent. Lorraine Gariepy requests an adjournment because the Tenants recently contacted housing support and the Tenant Jagr Melo recently started a new job. The Landlord opposed the adjournment and stated the Landlord had reached out to the Tenants in June 2023 with a letter addressing the arrears and provided information for the housing help centre. The Landlord states some payments towards rent arrears were since received from the housing help centre. The Landlord stated in lieu of adjourning the matter, the Landlord would agree to postponing the termination date of the tenancy. The adjournment request raised at the hearing was denied. It was not on consent, the application was filed in May 2023 and the adjournment request could have been made prior to the hearing. Further, I find that the adjournment request was not based on extenuating circumstances.

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 \$1,032.11. It is due on the 1st day of each month.

4. Based on the Monthly rent, the daily rent/compensation is \$33.93. This amount is calculated as follows: $\$1,032.11 \times 12$, divided by 365 days.
5. The Tenants has paid \$3,539.33 to the Landlord since the application was filed.
6. At the hearing, the parties agreed that the rent arrears owing to September 30, 2023 are \$2,353.33.
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 \$995.00 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 \$48.20 is owing to the Tenants for the period from April 1, 2021 to September 14, 2023.
10. The parties agreed to a standard order with postponing the termination date until November 15, 2023.
11. 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 15, 2023 pursuant to subsection 83(1)(b) of the Act. The parties consented to postponing the eviction date until November 15, 2023 which was explained to the Tenants Ariel Gariepy at the hearing. This allows the Tenants additional time to void this order by paying the amounts owing as set out below and preserve the tenancy.

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 or to the LTB in trust:**
 - \$2,539.33 if the payment is made on or before September 30, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 - \$3,571.44 if the payment is made on or before October 31, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 - \$4,603.55 if the payment is made on or before November 15, 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 15, 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 does not pay the amount required to void this order the Tenants must move out of the rental unit on or before November 15, 2023**
5. If the Tenants does not void the order, the Tenants shall pay to the Landlord \$939.04. 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 \$33.93 per day for the use of the unit starting September 15, 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 October 10, 2023, the Tenants will start to owe interest. This will be simple interest calculated from October 11, 2023 at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before November 15, 2023, then starting November 16, 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 16, 2023.

September 29, 2023
Date Issued

Kimberly Parish
Member, Landlord and Tenants 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 16, 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 September 30, 2023

Rent Owing To September 30, 2023	\$5,892.66
Application Filing Fee	\$186.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$3,539.33
Total the Tenants must pay to continue the tenancy	\$2,539.33

B. 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	\$6,924.77
Application Filing Fee	\$186.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$3,539.33
Total the Tenants must pay to continue the tenancy	\$3,571.44

C. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before November 15, 2023

Rent Owing To November 30, 2023	\$7,956.88
Application Filing Fee	\$186.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$3,539.33
Total the Tenants must pay to continue the tenancy	\$4,603.55

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

Rent Owing To Hearing Date	\$5,335.57
Application Filing Fee	\$186.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$3,539.33
Less the amount of the last month's rent deposit	- \$995.00
Less the amount of the interest on the last month's rent deposit	- \$48.20
Total amount owing to the Landlord	\$939.04
Plus daily compensation owing for each day of occupation starting September 15, 2023	\$33.93 (per day)