



Order under Section 69 Residential Tenancies Act, 2006

Citation: Kreze v Gilmour, 2023 ONLTB 65545

Date: 2023-09-25

File Number: LTB-L-020143-23

In the matter of: Unit 2 - 197 NIAGARA BLVD FORT
ERIE ON L2A3G7

Between: Denis Kreze Landlord

And

Lynn Gilmour Tenant

Denis Kreze (the 'Landlord') applied for an order to terminate the tenancy and evict Lynn Gilmour (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on July 5, 2023.

Only the Landlord's Legal Representative Antonio Caruso and the Landlord attended the hearing.

As of 10:37 a.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. The application is amended to add the unit number "Unit 2", which is not included on page 1 of the application but appears correctly on page 4 of the application. The Landlord's Legal Representative indicated that he had emailed the Board because when the application was uploaded some of the fields had not populated properly.
2. The Notice to End Tenancy Early for Non-payment of Rent (N4 Notice) correctly identifies the unit, as does the certificate of service. A letter dated February 16, 2023 from the Landlord's Legal Representative to the Tenant correctly identifies the unit and advises of the amount of rental arrears. The certificate of service of the L1/L9 Update sheet also correctly identifies the unit. The Board served the Tenant with the Notice of Hearing at the

address on the application, and the Notice was not returned to the Board as undeliverable. I am therefore satisfied that the Tenant was aware of the N4 and the application, and also of the date and time of the hearing.

3. 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.
4. As of the hearing date, the Tenant was still in possession of the rental unit.
5. The lawful rent is \$550.00. It is due on the 1st day of each month.
6. Based on the Monthly rent, the daily rent/compensation is \$18.08. This amount is calculated as follows: \$550.00 x 12, divided by 365 days.
7. The Tenant has paid \$2,200.00 to the Landlord since the application was filed.
8. There is a clerical error on the L1/L9 Update Sheet. The Landlord clarified that the rent arrears owing to July 31, 2023 are \$2,750.00 and not \$3,300.00.
9. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
10. There is no last month's rent deposit.
11. The Landlord submitted into evidence a letter dated February 16, 2023 which offered the Tenant a payment plan over 5 months. No response was received.
12. The Tenant made full payments of the monthly rent in March, April, May and June 2023. The July rent payment had not been received as of the date of the hearing.
13. 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.

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:**
 - \$4,036.00 if the payment is made on or before September 30, 2023. See Schedule 1 for the calculation of the amount owing.

OR

- \$4,586.00 if the payment is made on or before October 6, 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 6, 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 6, 2023**
 5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$2,476.40. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
 6. The Tenant shall also pay the Landlord compensation of \$18.08 per day for the use of the unit starting July 6, 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 6, 2023, the Tenant will start to owe interest. This will be simple interest calculated from October 7, 2023 at 6.00% annually on the balance outstanding.
 8. If the unit is not vacated on or before October 6, 2023, then starting October 7, 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 7, 2023.

2023 ONLTB 65545 (CanLI)

September 25, 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 April 7, 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 September 30, 2023

Rent Owing To September 30, 2023	\$6,050.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$2,200.00
Total the Tenant must pay to continue the tenancy	\$4,036.00

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before October 6, 2023

Rent Owing To October 31, 2023	\$6,600.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$2,200.00
Total the Tenant must pay to continue the tenancy	\$4,586.00

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

Rent Owing To Hearing Date	\$4,490.40
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$2,200.00
Less the amount of the last month's rent deposit	- \$0.00
Less the amount of the interest on the last month's rent deposit	- \$0.00
Total amount owing to the Landlord	\$2,476.40
Plus daily compensation owing for each day of occupation starting July 6, 2023	\$18.08 (per day)