



Order under Section 69 Residential Tenancies Act, 2006

Citation: Starlight Canadian Residential Growth Fund v Smit, 2023 ONLTB 63342

Date: 2023-09-25

File Number: LTB-L-079562-22

In the matter of: 0214, 24 IDA ST
ST CATHARINES ON L2R3X5

Between: Starlight Canadian Residential Growth Fund Landlord

And

Abraham Smit Tenant

Starlight Canadian Residential Growth Fund (the 'Landlord') applied for an order to terminate the tenancy and evict Abraham Smit (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on August 29, 2023.

The Landlord's Representative, Krizia Hernandez, 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 \$1,720.97. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$56.58. This amount is calculated as follows: \$1,720.97 x 12, divided by 365 days.
5. The Tenant has paid \$5,913.00 to the Landlord since the application was filed.
6. The rent arrears owing to August 31, 2023, are \$11,769.94.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. There is no last month's rent deposit.
9. The Tenant testified that he had endured a substantial setback, and as a result, lost his car, became unemployed, and as a result, is suffering from depression. The Tenant does not contest the amount of arrears but is seeking a delay in the eviction date.

10. The Landlord was not opposed to a delay of 30 days from the date of issuance of the order.
11. 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 October 25, 2023, pursuant to subsection 83(1)(b) 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:**
 - \$13,676.91 if the payment is made on or before September 30, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 - \$15,397.88 if the payment is made on or before October 25, 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 25, 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 25, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$11,875.79. 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 \$56.58 per day for the use of the unit starting August 30, 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 25, 2023, the Tenant will start to owe interest. This will be simple interest calculated from October 26, 2023, at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before October 25, 2023, then starting October 26, 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 26, 2023.

September 25, 2023
Date Issued

Robert Brown
 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 26, 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.

2023 ONL TB 63342 (CanLII)

**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 | \$19,403.91 |
| Application Filing Fee | \$186.00 |
| NSF Charges | \$0.00 |
| Less the amount the Tenant paid to the Landlord since the application was filed | - \$5,913.00 |
| Total the Tenant must pay to continue the tenancy | \$13,676.91 |

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before October 25, 2023

| | |
|--|--------------------|
| Rent Owing To October 31, 2023 | \$21,124.88 |
| Application Filing Fee | \$186.00 |
| NSF Charges | \$0.00 |
| Less the amount the Tenant paid to the Landlord since the application was filed | - \$5,913.00 |
| Total the Tenant must pay to continue the tenancy | \$15,397.88 |

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

| | |
|--|----------------------|
| Rent Owing To Hearing Date | \$17,602.79 |
| Application Filing Fee | \$186.00 |
| NSF Charges | \$0.00 |
| Less the amount the Tenant paid to the Landlord since the application was filed | - \$5,913.00 |
| Less the amount of the last month's rent deposit | - \$ |
| Less the amount of the interest on the last month's rent deposit | - \$0.00 |
| Total amount owing to the Landlord | \$11,875.79 |
| Plus daily compensation owing for each day of occupation starting August 30, 2023 | \$56.58 (per day) |