



Order under Section 69 Residential Tenancies Act, 2006

Citation: Chun v Barai, 2023 ONLTB 64003

Date: 2023-09-19

File Number: LTB-L-068133-22

In the matter of: 2601, 12 YORK ST
TORONTO ON M5J0A9

Between: Jeongsun Chun Landlord

And

Sejal Barai Tenant

Jeongsun Chun (the 'Landlord') applied for an order to terminate the tenancy and evict Sejal Barai (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on May 23, 2023.

The Landlord 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 \$1,781.50. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$58.57. This amount is calculated as follows: \$1,781.50 x 12, divided by 365 days.
5. The Tenant has paid \$9,000.00 to the Landlord since the application was filed.
6. The rent arrears owing to May 31, 2023 are \$6,974.50.
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.

Rent Arrears:

9. The parties disagreed over the outstanding rent arrears.
10. The following are emails exchanged between the parties:

- On April 11, 2021, 7:15:00 AM, the Tenant asked the Landlord to “decide as she have \$1500.00 for the Landlord now for January 2021, if you can agree to \$1500 a month rent for 2021.”
- On April 29, 2021, 7:43:16 PM, the Landlord requested for payment plan for rent arrears of \$8,907.50 before any rent reduction discussion.
- On May 18, 2021, 3:43:00 PM, the Tenant informed the Landlord about rent owing from January to May 2021 to be \$7500. Then the Tenant requested for a payment schedule that “would entail \$1500 rent for each month, plus an additional \$500 per month for 15 months to pay off the \$7500 owing”.
- On May 24, 2021, 1:16:00 AM, the Landlord requested from the Tenant an employment explaining how COVID-19 affects her job situation and a letter from the Tenant’s father(guarantor) showing how he will help the Tenant to pay the rent until all arrears are paid.
- On November 26, 2021, 8:44:00 PM, the Landlord presented two rent payment options to the Tenant, whereby in option 1, the rent of \$1500 from June 2021 till November 2021 for 6 months, the rent will be \$1850/month starting from March 2022, No more discount from December 2021. So, the rent will go back to \$1781.50 from December 2021 till Feb 2022. In option 2, \$1805/month starting from March 2022, the rent would not be decreased and remains at \$1781.50 till Feb 2022.
- On January 18, 2022, 4:25:00 AM, the Tenant claim that the Landlord agreed to reduce her rent to \$1500, and to accept \$500 per month equalling \$2000 monthly, until the arrears of \$7500 is paid off because the Landlord requested two documents from her, which she provided.

11. The Tenant disputed the rent arrears, citing a previous agreement with the Landlord to permanently reduce her monthly rent from \$1,781.50 to \$1,500.00. The Tenant claims that this agreement was reached after she informed the Landlord about her difficulties paying rent due to COVID-19 and provided all the necessary documents, including employment and guarantor letters, as per the Landlord's request.

12. The Landlord claims she did not agree to a permanent \$1,500.00 rent reduction. The Landlord claims that the Tenant proposed a reduction from \$1,781.50 to \$1,500.00 monthly rent due to financial problems, which she informed the Tenant that she would think about and respond at the appropriate time. Eventually, the Landlord provided the Tenant with the option of paying \$1,500.00 monthly from June 2021 to November 2021.

Analysis:

13. Based on the evidence and testimonies before me, I do not find, on a balance of probabilities, that the parties entered into an agreement whereby the Tenant would pay permanently a reduced rent from \$1,781.50 to \$1,500.00. No evidence was presented that corroborated the Tenant's assertion that there was a meeting of the minds on a rent reduction beyond November 2021, and the fact that the Tenant claims that since the

Landlord requested a copy of a guarantor and employment shows that the Landlord had agreed to a permanently reduced rent payment of \$1,500.00 is not sufficient to establish that the Landlord agreed to her proposal. The evidence establishes that the Landlord never agreed to any rent reduction until her proposal in the email dated November 26, 2021, and it was established that the reduced rent would be \$1,500.00 from June 01, 2021, to November 01, 2021. In light of these circumstances, I find the Landlord's evidence to be accurate and the total arrears to be \$6,974.50.

14. 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:**
 - \$14,286.50 if the payment is made on or before September 30, 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 September 30, 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 September 30, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$6,726.11. 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 \$58.57 per day for the use of the unit starting May 24, 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 September 30, 2023, the Tenant will start to owe interest. This will be simple interest calculated from October 1, 2023 at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before September 30, 2023, then starting October 1, 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 1, 2023.

September 19, 2023

Date Issued

Percy Laryea

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 1, 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	\$23,100.50
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$9,000.00
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	\$14,286.50

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

Rent Owing To Hearing Date	\$15,540.11
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$9,000.00
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	- \$0.00
Less the amount of the interest on the last month's rent deposit	- \$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 amount owing to the Landlord	\$6,726.11
Plus daily compensation owing for each day of occupation starting May 24, 2023	\$58.57 (per day)

