



Order under Section 69
Residential Tenancies Act, 2006

Citation: Morrish v Crotty, 2023 ONLTB 63019

Date: 2023-09-18

File Number: LTB-L-013801-23

In the matter of: 2-170 SANFORD AVE S
Hamilton ON L8M2G9

Between: Darcy Morrish Landlord

And

David Crotty and Leslie Rogers Tenant

Darcy Morrish (the 'Landlord') applied for an order to terminate the tenancy and evict David Crotty and Leslie Rogers (the 'Tenant') because

- the Tenant did not pay the rent that the Tenant owes.
- the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year.

This application was heard by videoconference on July 10, 2023.

The Landlord and the Tenant, D. Crotty attended the hearing.

Determinations:

L2 Application

1. On January 22, 2023, the Landlord gave the Tenant an N12 notice of termination with the termination date of March 31, 2023. The Landlord claims that they require vacant possession of the rental unit for the purpose of residential occupation by themselves.
2. Section 48.1 of the Residential Tenancies Act, 2006 (Act) states then when a landlord serves the tenant with an N12 notice of termination, the landlord must pay the tenant compensation equal to one month's rent or provide the tenant with alternative accommodation. Section 55.1 states that the compensation must be paid by the termination date on the N12 notice of termination, and section 83(4) states the Board cannot issue an eviction order if the required compensation has not been paid.

3. The Landlord has not compensated the Tenant an amount equal to one month's rent and the termination date on the N12 notice of termination has long passed. As a result, this portion of the Landlord's L2 Application must be dismissed.

L1 Application

4. 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.
5. As of the hearing date, the Tenant was still in possession of the rental unit.
6. The lawful rent is \$900.00. It is due on the 1st day of each month.
7. Based on the Monthly rent, the daily rent/compensation is \$29.59. This amount is calculated as follows: \$900.00 x 12, divided by 365 days.
8. The Tenant has not made any payments since the application was filed.
9. The rent arrears owing to July 31, 2023 are \$6,300.00.
10. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
11. The Landlord collected a rent deposit of \$875.00 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.
12. Interest on the rent deposit, in the amount of \$186.15 is owing to the Tenant for the period from June 1, 2014 to July 10, 2023.

Relief from Eviction

13. The Tenant testified that he was planning on moving out of the unit, but places that he was looking at fell through. He testified that he has made no payments towards the rent because of money he spent on the rental unit. The Tenant lives in the unit by himself and receives ODSP.
14. The Tenant suggested a payment that would see the arrears paid off in approximately 33 months by paying \$200.00 a month towards the arrears until the arrears are paid in full. In the alternative, the Tenant requested 60 days to vacate the unit.
15. The Landlord is requesting a standard order.
16. Based on the evidence before me, I do not find that the payment plan suggested by the Tenant is reasonable. After going through the Tenant's monthly expenses versus his income, it is clear that he cannot afford the payment plan that he is suggesting. In fact, he is short about \$50.00 a month not including the payment towards the arrears. The Tenant has made no payments towards the rent since

at least January 2023. I find that any further delay would be prejudicial to the Landlord, who submitted that he has been financially impacted by the Tenant's choice to not pay rent.

17. 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. As noted at the hearing, I advised the Tenant that I am not granting the payment plan that he suggested, and I would make a determination about how much time to give him to vacate the unit. The Tenant was aware at the hearing that his tenancy would be terminated. Given the delay in issuing this order, no further delay shall be ordered.

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:
 - \$8,286.00 if the payment is made on or before September 29, 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 29, 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 29, 2023
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$4,820.75. 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 \$29.59 per day for the use of the unit starting July 11, 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 29, 2023, the Tenant will start to owe interest. This will be simple interest calculated from September 30, 2023 at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before September 29, 2023, then starting September 30, 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 September 30, 2023.

September 18, 2023

Date Issued

Emily Robb

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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 March 31, 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.

Rent Owing To Hearing Date	\$5,695.90
Application Filing Fee	\$186.00
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	- \$875.00
Less the amount of the interest on the last month's rent deposit	- \$186.15
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	\$4,820.75
Plus daily compensation owing for each day of occupation starting July 11, 2023	\$29.59 (per day)

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2023 ONL TB 63019 (CanLI)

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 29, 2023

Rent Owing To September 30, 2023	\$8,100.00
Application Filing Fee	\$186.00
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	\$8,286.00

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

