



Order under Section 69 Residential Tenancies Act, 2006

Citation: 1396889 Ontario Inc v Ouellette, 2023 ONLTB 62279

Date: 2023-09-15

File Number: LTB-L-011469-23

In the matter of: 3176 Wyandotte St w Windsor
ON N9C1M6

Between: 1396889 Ontario Inc Landlord

And

Tom Ouellette, Kristen Laliberte and Terry Ouellette Tenants

1396889 Ontario Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Tom Ouellette, Kristen Laliberte and Terry Ouellette (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on August 31, 2023. The Landlord's representative, Justin Brodie Timms-Fryer, and the Tenants attended the hearing. The Tenants met with Duty Counsel prior to the commencement of the hearing.

Preliminary Issue:

1. The Tenants indicated that they have filed an application with the Board and requested to adjourn this matter so that the applications could be heard together. The Tenants' request to adjourn is denied for the following reasons.
2. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Nonpayment of Rent (N4 Notice) on January 2, 2023 and filed their application with the Board on February 4, 2023. The Board's records indicate the Tenants filed a T6 application on April 28, 2023.
3. I believe it would be prejudicial to the Landlord to adjourn this matter. The Tenants could have made a formal request to have their application heard with the Landlord's application in advance of the hearing. They did not. The Tenants also could have submitted a detailed list of issues they wanted to raise at this hearing under section 82 in advance of the hearing as required. They did not.

4. The Landlord filed their application months before the Tenants filed their application. In my view, the Tenants have had sufficient time to raise issues in advance of the hearing.

Determinations:

1. The Landlord served the Tenants with a valid 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 were still in possession of the rental unit.
3. The lawful rent is \$1,600.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$52.60. This amount is calculated as follows: \$1,600.00 x 12, divided by 365 days.
5. The Tenants have not made any payments since the application was filed.
6. The rent arrears owing to August 31, 2023 are \$12,800.00.
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.

Section 83 considerations

9. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
10. Tenants Terry Ouellette and Kristen Laliberte each receive Ontario Works ('OW') benefits in the amount of \$730.00 a month. Tenant Tom Ouellette receives Ontario Disability Support Program ('ODSP') benefits of \$1,280.00 a month. According to Tenant Terry Ouellette, their monthly expenses are approximately \$1,700.00. This does not include the monthly rent payment.
11. The tenancy began on November 1, 2022. The Tenants do not dispute that they paid the rent for November and December 2022 but stopped paying the rent in January 2023. Tenant Terry Ouellette testified that when they moved into the unit, he was working but they began to struggle paying the rent when he was laid off Christmas of 2022.
12. The Tenants proposed paying \$500.00 each month towards the arrears in addition to the monthly rent. Based on the Tenants' evidence, they would only have \$100.00 remaining after their household expenses and rent to put towards the arrears. Given this, it is

unreasonable to expect that the Tenants would be able to pay \$500.00 a month towards the arrears.

13. The Tenants indicated that they had no intentions of remaining in the rental unit past their fixed term of October 31, 2023. Given their inability to pay the arrears, which are substantial, I believe it would be prejudicial to the Landlord to postpone the eviction.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants void this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$14,586.00 if the payment is made on or before September 26, 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 have paid the full amount owing as ordered plus any additional rent that became due after September 26, 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 Tenants do not pay the amount required to void this order the Tenants must move out of the rental unit on or before September 26, 2023**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$12,986.00. 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 Tenants shall also pay the Landlord compensation of \$52.60 per day for the use of the unit starting September 1, 2023 until the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before September 26, 2023, the Tenants will start to owe interest. This will be simple interest calculated from September 27, 2023 at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before September 26, 2023, then starting September 27, 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 27, 2023.

September 15, 2023

Date Issued

Dawn Sullivan

Vice Chair, 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 March 27, 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 26, 2023

Rent Owing To September 30, 2023	\$14,400.00
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
Total the Tenant must pay to continue the tenancy	\$14,586.00

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

Rent Owing To Hearing Date	\$12,800.00
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
Total amount owing to the Landlord	\$12,986.00
Plus daily compensation owing for each day of occupation starting September 1, 2023	\$52.60 (per day)