



Order under Section 69 Residential Tenancies Act, 2006

Citation: 255 Simcoe Street Holdings v Brown, 2023 ONLTB 61437

Date: 2023-09-08

File Number: LTB-L-031460-23

In the matter of: 703, 255 SIMCOE ST N
OSHAWA ON L1G4T4

Between: 255 Simcoe Street Holdings Landlord

And

John Brown Tenants
Thelma Brown

255 Simcoe Street Holdings (the 'Landlord') applied for an order to terminate the tenancy and evict John Brown and Thelma Brown (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on August 28, 2023. The Landlord's agent Kathy Bucan and the Tenant Thelma Brown attended the hearing.

Determinations:

1. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Nonpayment of Rent (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 \$1,543.30. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$50.74. This amount is calculated as follows: \$1,543.30 x 12, divided by 365 days.
5. The Tenants have paid \$5,776.40 to the Landlord since the application was filed.
6. The rent arrears owing to August 31, 2023 are \$3,483.40.

7. At the hearing, the Tenant disputed the amount of arrears owing, however the Tenant did not indicate which arrears are in dispute nor did the Tenant provide any evidence to support that additional payments were made to the Landlord and not accounted for.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlord collected a rent deposit of \$1,543.30 from the Tenants 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.
10. Interest on the rent deposit, in the amount of \$38.27 is owing to the Tenants for the period from September 1, 2022 to August 28, 2023.

Relief from eviction:

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 31, 2023 pursuant to subsection 83(1)(b) of the Act.
12. The Tenants have resided in the rental unit for approximately five years, and the Tenant John Brown is currently experiencing issues with his health. The Tenants are currently unemployed and living on a fixed income. The Tenant who attended the hearing did not propose a concrete repayment plan, but requested additional time to pay the arrears and stated that she intends to borrow money from a friend to pay the Landlord in full.
13. In light of the good-faith payments made by the Tenants since the application was filed and the fact that the Tenants have experienced some unforeseen hardship, I find that it would not be unfair to delay termination to allow the Tenants some additional time to either pay the arrears in full or to find alternate housing.

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:**
 - \$5,212.70 if the payment is made on or before September 30, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 - \$6,756.00 if the payment is made on or before October 31, 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 October 31, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants 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 October 31, 2023**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$1,965.25. 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 Tenants. See Schedule 1 for the calculation of the amount owing.
6. The Tenants shall also pay the Landlord compensation of \$50.74 per day for the use of the unit starting August 29, 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 19, 2023, the Tenants will start to owe interest. This will be simple interest calculated from September 20, 2023 at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before October 31, 2023, then starting November 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 November 1, 2023.

September 8, 2023

Date Issued

Fabio Quattrociocchi

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 May 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	\$10,803.10
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$5,776.40
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	\$5,212.70

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before October 31, 2023

Rent Owing To October 31, 2023	\$12,346.40
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$5,776.40
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	\$6,756.00

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

Rent Owing To Hearing Date	\$9,137.22
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$5,776.40
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	- \$1,543.30
Less the amount of the interest on the last month's rent deposit	- \$38.27

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	\$1,965.25
Plus daily compensation owing for each day of occupation starting August 29, 2023	\$50.74 (per day)