



**Order under Section 69
Residential Tenancies Act, 2006**

Citation: Morguard Corporation v Smith, 2023 ONLTB 59415

Date: 2023-08-31

File Number: LTB-L-058308-22

In the matter of: 303, 85 THORNCLIFFE PARK DR
TORONTO ON M4H1L6

Between: Morguard Corporation Landlord

And

Anthony Smith Tenant

Morguard Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Anthony Smith (the 'Tenant') because:

- the Tenant has been persistently late in paying the Tenant's rent.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

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

The Landlord's representative, Faith McGregor and the Tenant attended the hearing.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and/or the claim for compensation in the application. However, I find that it would not be unfair to grant relief from eviction on the condition that the Tenant pay the rent on time for a 12-month period.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. The rent is due on the first of the month.

N8 Notice of Termination

4. On October 4, 2022, the Landlord gave the Tenant an N8 notice of termination with a termination date of December 31, 2022. The notice of termination contains the following allegations:
 - The Tenant paid the monthly rent late for the periods October 2021 – September 2022 (12 months)

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5. Since the application was filed in October 22, the Tenant paid the rent late from October 2022 to July 2023.
6. I find that the Tenant has persistently failed to pay the rent on the date it was due. The rent has been paid late 22 times during the period October 1, 2021 to July 1, 2023.

Relief from eviction

7. 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 grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.
8. The Landlord is seeking a standard order for eviction based on the late payments of rent. The Landlord has made significant attempts to contact the Tenants. The Tenants failed to pay the rent on time. This is the first N8 that the Landlord has served to this Tenant.
9. The Tenant testified that he is employed and paid the rent late based on his personal choices. The Tenant would like to stay in the rental unit and maintain the tenancy as he has been living in the rental unit for 10 years. Eviction would leave him homeless.
10. I find that it would not be unfair to impose a conditional order instead of issuing a 'standard order' as per the Landlord's request. The Tenant has testified that they can commit to paying the rent on time moving forward and thus should be afforded an opportunity to preserve their Tenancy and remain in the rental unit as eviction is the last resort.

It is ordered that:

1. The tenancy between the Landlord and the Tenant continues if the Tenant meets the conditions set out below.
2. The Tenant shall pay the monthly rent for September 2023 on or before September 15, 2023.
3. Starting October 1, 2023 and continuing through August 31, 2024, the Tenant shall pay the monthly rent on or before the first day of each month.
4. If the Tenant fails to comply with the conditions set out in paragraph 2 of this order, the Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenant. The Landlord must make the application within 30 days of a breach of a condition. This application is made to the LTB without notice to the Tenant.
5. The Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.

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6. If the Tenant does not pay the Landlord the full amount owing on or before September 11, 2023, the Tenant will start to owe interest. This will be simple interest calculated from September 12, 2023 at 6.00% annually on the balance outstanding.

August 31, 2023
Date Issued

Camille Clyne
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.