



Order under Section 69 Residential Tenancies Act, 2006

Citation: Bianca v Crook, 2023 ONLTB 59593

Date: 2023-08-28

File Number: LTB-L-034912-23

In the matter of: 328 MAPLEVIEW CRT
PICKERING ON L1X2X3

Between: Sharon Bianca Landlord

And

Blair Stephen Crook and Erika Szamosvari Tenant

Sharon Bianca (the 'Landlord') applied for an order to terminate the tenancy and evict Blair Stephen Crook and Erika Szamosvari (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes. **This is the L1 application.**

Sharon Bianca (the 'Landlord') also applied for an order to terminate the tenancy and evict Blair Stephen Crook and Erika Szamosvari (the 'Tenant') because the Tenants have been persistently late paying the rent. **This is the L2 application.**

These applications were heard by videoconference on August 21, 2023.

The Landlord and the Tenant attended the hearing. The Landlord was represented by Leslie Mullen.

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 \$3,075.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$101.10. This amount is calculated as follows: \$3,075.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.

6. The rent arrears owing to August 31, 2023 are \$16,375.00.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord seeks a non-voidable termination as the arrears are significant and the Tenant has made no payments over the past six months.

Tenant's Request for Relief

9. The Tenants do not dispute the quantum of arrears as claimed by the Landlord. They testified that they have lived in the rental unit for the past two years and have 2 small children.
10. The Tenants seek a delay in eviction to October 31, 2023 as they have a place to move which will become available November 1, 2023.
11. The Tenants are willing to pay the rent for September 2023 to the Landlord in consideration of the extended time that they seek.
12. The Landlord opposes the Tenants' request as the Tenants have not communicated with the Landlord or made any payments in good faith since the accrual of the rent arrears.
13. Based on the evidence before the Board, I find the arrears and costs owing to August 31, 2023 total \$16,561.00. This is undisputed.
14. With respect to the Tenant's request for relief, while I share the concerns of the Landlord, in that the Tenants have made no payments since the arrears have accrued, I am mindful of the length of the tenancy and the Tenant's family size but particularly the Tenant's commitment to pay the rent for September 2023 and as such, I do not find it would be unfair to grant the Tenant's request as the last month's rent deposit would be applied to October's rent and no further arrears would accrue.
15. The Landlord collected a rent deposit of \$3,075.00 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.
16. Interest on the rent deposit, in the amount of \$49.07 is owing to the Tenant for the period from January 1, 2023 to August 21, 2023.
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 not be unfair to postpone the eviction until October 31, 2023 pursuant to subsection 83(1)(b) of the Act.
18. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before October 31, 2023.
2. 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.
3. 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.
4. The Tenant shall pay to the Landlord the rent for September 2023 in full and no later than September 1, 2023.
5. **If the Tenants fail to comply with paragraph 4 of this order, the Landlord may, without notice to the Tenants and within 30 days of the breach, apply to the Board pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenants earlier than October 31, 2023.**
6. The last month rent deposit shall be applied towards the rent for October 2023.
7. The Tenant shall pay to the Landlord \$15,560.03. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. The 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.
8. The Tenant shall also pay the Landlord compensation of \$101.10 per day for the use of the unit starting November 1, 2023 until the date the Tenant moves out of the unit.
9. If the Tenant does not pay the Landlord the full amount owing on or before October 31, 2023, the Tenant will start to owe interest. This will be simple interest calculated from November 1, 2023 at 6.00% annually on the balance outstanding.

August 28, 2023
Date Issued

Sonia Anwar-Ali
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 if the tenancy is terminated

Rent Owing To Hearing Date	\$15,423.10
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 interest on the last month's rent deposit	- \$49.07
Total amount owing to the Landlord	\$15,560.03
Plus daily compensation owing for each day of occupation starting November 1, 2023	\$101.10 (per day)