



Order under Section 69 Residential Tenancies Act, 2006

Citation: Ottawa Community Housing v Chol, 2023 ONLTB 58276

Date: 2023-08-25

File Number: LTB-L-037969-22

In the matter of: 217, 255 DONALD ST OTTAWA
ON K1K1N1

Between: Ottawa Community Housing Landlord

And

Adea Chol Tenant

Ottawa Community Housing (the 'Landlord') applied for an order to terminate the tenancy and evict Adea Chol (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on July 7, 2023.

The Landlord's representative N. Mohamed Said and the Tenant attended the hearing.

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 \$262.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$8.61. This amount is calculated as follows: \$262.00 x 12, divided by 365 days.
5. The Tenant has paid \$2,168.00 to the Landlord since the application was filed.
6. The Landlord claims arrears to July 31, 2023 in the amount of \$7,193.00. At the hearing the Tenant disputed this amount of arrears for two reasons. First, he submitted that the amount that he was charged for rent was incorrect for several months, due to a

miscalculation of the Tenant's rent subsidy. Section 203 of the *Residential Tenancies Act, 2006* (the 'Act') prohibits the Board from making determinations concerning the eligibility for rent-geared-to-income assistance or the amount of geared-to-income rent payable under the *Housing Services Act, 2011*. The Tenant receives rent-geared-to-income assistance regulated by the *Housing Services Act*. Pursuant to s.203 of the Act, I cannot make a determination as to the amount of the Tenant's rent subsidy for any period of time and so I cannot make a determination that the Tenant owes less rent than claimed by the Landlord for the relevant time.

7. Secondly, the Tenant testified that contrary to the Landlord's ledger, he paid full rent for the months of January, February, and March, 2021. The Landlord's ledger shows no payments made for these months. The Tenant testified that he paid rent for these months through his bank. The Tenant did not file any bank records to show that he made these payments. The Tenant had ample notice of the amount of arrears claimed by the Landlord and for which months and it would have been easy to obtain bank records for the relevant period. Based on the Landlord's clear evidence and the Tenant's lack of easily obtainable documentary evidence, I am satisfied, on a balance of probabilities, that the Tenant paid no rent for the months of January, February, and March 2021 and that that amount claimed by the Landlord is correct. I therefore find that the Tenant owes the Landlord \$7,269.00 in arrears to July 31, 2023.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. There is no last month's rent deposit.

Relief from eviction

10. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act and find that it would not be unfair to postpone the eviction until September 30, 2023 pursuant to subsection 83(1)(b) of the Act.
11. The Tenant is not elderly, he disclosed no disabilities, and he has no children living with him. The Tenant did not request any relief from eviction. When I canvassed relief, the Tenant continued to insist that I should recalculate his subsidy for a period in the past.
12. The Tenant's income is very low. The Tenant testified that he pays \$500.00 per month in child support. When the monthly rent is considered, the Tenant has less than \$40.00 per month to spend on food and any other expenses. The Tenant cannot afford to pay his full rent plus any amount toward arrears. This tenancy is not sustainable. At the hearing the Landlord's representative submitted that the Landlord is not prejudiced by a termination date of August 31, 2023.
13. At the hearing I advised the parties that I would set the termination date at August 31, 2023. Given the Tenant's low income, which will cause him difficulty in finding alternate accommodations, and given the date of issuance of this order, I believe it is appropriate to postpone eviction to September 30, 2023.

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:**
 - \$7,455.00 if the payment is made on or before August 31, 2023. See Schedule 1 for the calculation of the amount owing.

OR

- \$7,717.00 if the payment is made on or before September 30, 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 30, 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 30, 2023**
 5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$6,991.27. 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 Tenant shall also pay the Landlord compensation of \$8.61 per day for the use of the unit starting July 8, 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 5, 2023, the Tenant will start to owe interest. This will be simple interest calculated from September 6, 2023 at 6.00% annually on the balance outstanding.
 8. If the unit is not vacated on or before September 30, 2023, then starting October 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 October 1, 2023.

August 25, 2023

Date Issued

Renée Lang

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 April 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 August 31, 2023

Rent Owing To August 31, 2023	\$9,437.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$2,168.00
Total the Tenant must pay to continue the tenancy	\$7,455.00

B. 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	\$9,699.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$2,168.00
Total the Tenant must pay to continue the tenancy	\$7,717.00

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

Rent Owing To Hearing Date	\$8,973.27
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$2,168.00
Less the amount of the last month's rent deposit	- \$
Less the amount of the interest on the last month's rent deposit	- \$0.00
Total amount owing to the Landlord	\$6,991.27
Plus daily compensation owing for each day of occupation starting July 8, 2023	\$8.61 (per day)