



Order under Section 69 Residential Tenancies Act, 2006

Citation: Maceren v Sanderson, 2023 ONLTB 58004

Date: 2023-08-23

File Number: LTB-L-043215-23

In the matter of: 31 SMITH CRES
BELLEVILLE ON K8N4K3

Between: Genevieve Bolando Maceren Landlords
Allan Alvarez Maceren

And

James Sanderson Tenants
Alecia Glenn

Genevieve Bolando Maceren and Allan Alvarez Maceren (the 'Landlords') applied for an order to terminate the tenancy and evict James Sanderson and Alecia Glenn (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on August 15, 2023.

The Landlord Genevieve Maceren and the Tenants James Sanderson and Alecia Glenn attended the hearing.

Determinations:

Preliminary Issue

1. At the hearing, the Tenant pointed out they had submitted evidence related to issues they have had during the tenancy. The Tenants had not served the Landlords or filed with the Board a list of issues they intended to raise under section 82 of the *Residential Tenancies Act, 2006* (the Act). I explained to the Tenants that pursuant to Board Rule 19.4, this notice is required to be served on the Landlords and filed with the Board seven days prior to the hearing.
2. I asked the Tenants why Rule 19.4 had not been complied with and the Tenants stated they were not aware of the requirement. I did not find this to be a reasonable explanation as contemplated in Board Rule 19.5 and I did not permit the Tenants to raise their issues

under section 823 of the Act. I advised the Tenants they could file their own application with the Board and the Landlord's application proceeded.

L1 Application

3. At the hearing the Landlord relied on oral submissions and referred to documents to support their application. The Tenants were also given an opportunity to provide submissions and evidence.
4. The Landlords 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.
5. As of the hearing date, the Tenants were still in possession of the rental unit.
6. It was not disputed that the lawful rent is \$2,250.00. It is due on the 1st day of each month.
7. Based on the Monthly rent, the daily rent/compensation is \$73.97. This amount is calculated as follows: \$2,250.00 x 12, divided by 365 days.
8. It was not disputed the Tenants have not made any payments since the application was filed.
9. The rent arrears owing to August 31, 2023 are \$8,000.00. This amount was not disputed by the Tenants.
10. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
11. There is no last month's rent deposit.
12. The Landlords sought an eviction within 11 days of this order citing the accumulating rent arrears and the significant financial strain they are under. The Landlords' income comes from CPP and they have significant debt resulting from the unpaid rent arrears.
13. The Landlords' evidence was they had attempted to negotiate a payment agreement with the Tenants however the Tenants did not follow through with any payments.
14. The Tenants evidence was they stopped paying rent because the Landlords filed this application and decided to wait for the Board's decision. The Tenants sought a conditional order requiring payments towards the rent arrears in addition to the monthly rent. I asked the Tenants if they had saved the monthly rent payments they withheld and the Tenants advised me they had not. I canvassed the current household income of the Tenants to determine if they could afford the monthly rent and a meaningful payment towards the rent arrears. Only one Tenant is currently employed and based on the current household income, I find the tenancy is no longer sustainable.
15. I asked the Tenants if there were any circumstances they were experiencing that would make an eviction unfair. The Tenants stated they live with their 11-year-old child. There are no health or mobility issues being experienced in the home.

16. 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 September 15, 2023 pursuant to subsection 83(1)(b) of the Act. This extra time is meant to lessen the impact on the Tenants' child in relocating to new living accommodations while balancing the interests of the Landlords.

It is ordered that:

1. The tenancy between the Landlords 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 Landlords or to the LTB in trust:**
 - \$8,186.00 if the payment is made on or before August 31, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 - \$10,436.00 if the payment is made on or before September 15, 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 15, 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 September 15, 2023**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlords \$7,045.55. 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 Landlords compensation of \$73.97 per day for the use of the unit starting August 16, 2023 until the date the Tenants moves out of the unit.
7. If the Tenants do not pay the Landlords the full amount owing on or before September 15, 2023, the Tenants will start to owe interest. This will be simple interest calculated from September 16, 2023 at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before September 15, 2023, then starting September 16, 2023, the Landlords 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 Landlords on or after September 16, 2023.

August 23, 2023

Date Issued

John Cashmore

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 March 16, 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 Tenants 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	\$8,000.00
Application Filing Fee	\$186.00
Total the Tenant must pay to continue the tenancy	\$8,186.00

B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before September 15, 2023

Rent Owing To September 30, 2023	\$10,250.00
Application Filing Fee	\$186.00
Total the Tenant must pay to continue the tenancy	\$10,436.00

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

Rent Owing To Hearing Date	\$6,859.55
Application Filing Fee	\$186.00
Total amount owing to the Landlords	\$7,045.55
Plus daily compensation owing for each day of occupation starting August 16, 2023	\$73.97 (per day)