



Order under Section 69 Residential Tenancies Act, 2006

Citation: Jamieson v Lance, 2023 ONLTB 54498

Date: 2023-08-14

File Number: LTB-L-079012-22

In the matter of: 20 DYER COURT
CAMBRIDGE ON N3C4B8

Between: Jordan Jamieson Landlord

And

Quentin Lance Tenant

Jordan Jamieson (the 'Landlord') applied for an order to terminate the tenancy and evict Quentin Lance (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes (L1 Application).

Jordan Jamieson (the 'Landlord') also applied for an order to terminate the tenancy and evict Quentin Lance (the 'Tenant') because the Tenant has been persistently late in paying the Tenant's rent (L2 Application).

Jordan Jamieson (the 'Landlord') also applied for an order to terminate the tenancy and evict Quentin Lance (the 'Tenant') because the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year (L2 Application).

These applications were heard by videoconference on July 26, 2023.

Only the Landlord Jordan Jamieson attended the hearing.

As of 9:58 a.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. Since the Tenant did not attend and the Landlord was prepared to proceed, the matter proceeded by way of an uncontested hearing pursuant to section 7 of the *Statutory Powers Procedure Act*, R.S.O. 1990.

Determinations:

L1 Application

1. At the hearing, I pointed out to the Landlord the rent tables on the N4 notice given to the Tenant were not completed. I advised the Landlord the N4 notice was defective and as a result he could not obtain an eviction for the rent arrears being claimed on his L1 application.

2. While the Landlord requested that I issue an order for the rent arrears, I do not find this is an appropriate case to amend to an L9 application. I say this because when I reviewed the file and the Landlord's L1/L9 update sheet the financial figures contained in these documents were not what I was expecting after having done the calculations myself. The difference was not insignificant.
3. Additionally, the monthly rent indicated on the N4 notice was \$1,440.00. The L1 application stipulates it was \$1,450.00. At the hearing, the Landlord stated it was \$1,457.00 and it was unclear when any changes to the monthly rent may have occurred. The L1/L9 update sheet contained no payments made by the Tenant although the Landlord stated he did receive payments from the Tenant since filing the application. The amount the Landlord believed to be in arrears differed from the amount on the update sheet he submitted.
4. Lastly, the Tenant had not been provided an L1/L9 update sheet that contained accurate information.
5. Based on all of these concerns, and because the Tenant had not been provided an accurate L1/L9 update sheet, I did not amend the L1 application to an L9 application for rent arrears only. As such, the Landlord's L1 application is dismissed.

L2 Application

6. The Landlord's L2 application at the time of filing on December 19, 2022, was accompanied by an N8 notice of termination and an N12 notice of termination. They are both signed and dated on December 18, 2022 and both have the same termination date of January 31, 2023.

N8-Persistently Late Payment of Rent

7. The N8 notice appears to provide the Tenant less than the 60 days notice they are entitled to pursuant to the Act. It also alleges the Tenant was "late with rent a few times". The remainder of the reasons and details on the N8 notice are unrelated to the late payment of rent.
8. In *Ball v Metro Capital Management Inc.* [2002] OJ No 5931 (Div Crt)] the Divisional Court considered subsection 43(2) of the Act and found that the purposes of requiring that a landlord provide reasons and details on a notice given pursuant to the Act was to: (a) allow the tenant to be in a position to know the case to be met before the Board; (b) allow the tenant to decide whether or not to dispute the allegations made by the landlord; and, in the case of a voidable notice, (c) allow the tenant to stop the conduct or activity or correct the omission. The Divisional Court found that, to be in compliance with subsection 43(2), a notice should include dates and times of the alleged conduct, together with a detailed description of the alleged conduct. [*Ball v Metro Capital Management Inc.* [2002] OJ No 5931 (Div Crt), paras 10 and 12.]
9. Based on the N8 notice the Landlord gave the Tenant, I am not satisfied it meets the requirements of section 43(2) of the Act. Particularly, the monthly rent is not mentioned nor when it is due. The frequency of late payments and when they occurred is not mentioned. The amounts of payments are not mentioned. The N8 notice in my view, does not provide

the Tenant any information they would need to understand or respond to the claim. As a result, I found it invalid and dismissed this portion of the Landlord's L2 application.

N12-Landlord's Own Use

10. The N12 notice of termination that accompanied the Landlord's L2 application is signed and dated on December 18, 2022. The termination date in the notice is January 31, 2023. The time between the date the notice was signed, and the termination date is less than the 60 days notice the Tenant is entitled to under section 48(2) of the Act. I note all of the notices of termination that accompanied these applications when they were filed were all signed and dated on December 18, 2022. All of the notices of termination had the same termination date of January 31, 2023.
11. The Certificate of Service that accompanied the application claims the N12 notice was served on November 29, 2022, some 19 days before the notice was generated. This is the only Certificate of Service the Landlord submitted with his applications and it references an N12 notice only.
12. I asked the Landlord how the N12 notice could have been served on November 29, 2022 if it had not been created until December 18, 2022. The Landlord asked me if they had to be done at the exact same time. I explained to the Landlord he had to give the Tenant 60 days notice of termination.
13. The Landlord responded that he believed he signed the N12 notice on December 18, 2022 but was not sure. After some further discussion, the Landlord stated he served the N12 notice on the Tenant on November 29, 2022. I did not find the answers from the Landlord to be unequivocal. Frankly, I found the Landlord unsure in his responses and as a result I was left in doubt as to when the N12 was signed or served on the Tenant. I found it most likely the N12 notice was signed and dated on December 18, 2022 which was in keeping with the N4 and N8 notices of termination that were filed with the Landlord's applications.
14. Since I was not satisfied the Tenant was provided the 60 days notice required under section 48(2) of the Act, I dismissed the N12 portion of the Landlord's application.
15. Later in the hearing block, the Landlord rejoined the hearing and pointed out he had filed photographs of an N12 notice with the Board on March 9, 2023. These photographs are of an N12 notice filled out by hand with the Tenant's name and address on them. This notice is signed by the Landlord and dated on November 29, 2023. It is a completely different N12 notice than the one the Landlord filed with his L2 application.
16. The Landlord stated this was the copy of the notice he gave the Tenant. I was not convinced it was. This notice looked nothing like the N4 and N8 notices filed with these applications. The N4, N8 and N12 notices that accompanied these applications are all completed in computer print. They are all signed and dated on December 18, 2022.
17. I note the Board's records indicate the Landlord was advised of the discrepancy between the date on the Certificate of Service and when the N12 notice filed with the application

was signed and dated. This discrepancy was pointed out to the Landlord on March 3, 2023 and the Landlord then submitted this handwritten N12 on March 9, 2023.

18. Even if the hand-written N12 notice was the one the Landlord served on the Tenant, it did not accompany the application as required by section 53 of *Ontario Regulation 516/06*. This section states:

An application to the Board must be accompanied by the following information:

1. If the application is with respect to a notice of termination on any ground, a copy of the notice of termination and a certificate of service of the notice of termination, if notice was given by the landlord.
19. Pursuant to section 69(2) of the Act, a Landlord has 30 days from the date of termination on a notice given to a Tenant to apply to the Board for an order terminating the tenancy. Since the termination date on the N12 notice was January 31, 2023, the Landlord had until March 2, 2023 to perfect his application. The Landlord submitted this hand-written N12 notice on March 9, 2023 and was out of time to perfect the application when it was provided to the Board. Had I been convinced this was the N12 notice served on the Tenant, I would not have considered it given the requirements of section 53 of *Ontario Regulation 516/06* and section 69(2) of the Act.
20. After explaining to the Landlord the legislation I had considered, I advised the Landlord once more that the N12 portion of his L2 application was dismissed.
21. The Landlord was unable to provide a clear amount paid to the Tenant in compensation under section 48.1 of the Act and as such I cannot order an amount returned to the Landlord.

It is ordered that:

1. The Landlord's L1 and L2 applications are dismissed.

August 14, 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.