



Order under Section 69 Residential Tenancies Act, 2006

Citation: Oare v Chalus, 2023 ONLTB 49444

Date: 2023-07-10

File Number: LTB-L-027061-22

In the matter of: Main, 1570 WESTMINSTER AVE
WINDSOR ON N8T1W9

Between: Kelly Oare Landlord

And

Brian Chalus Tenant

Kelly Oare (the 'Landlord') applied for an order to terminate the tenancy and evict Brian Chalus (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on June 23, 2023.

The Landlord's legal representative, Kira Passell, 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 \$1,265.00. It is due on the 1st day of each month.
4. Based on the monthly rent, the daily rent/compensation is \$41.59. This amount is calculated as follows: \$1,265.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. At the hearing, the Tenant disputed the amount the Landlord claims he owes. However, the Tenant did not present evidence of any payments he has made to the Landlord that are not accounted for in the Landlord's claim.
7. Therefore, I am satisfied on a balance of probabilities that the rent arrears owing to June 30, 2023 are \$22,170.00, as claimed by the Landlord.
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.

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10. In his evidence, the Tenant referred to a flood in the basement of the rental unit and bedbugs. However, the Tenant did not disclose these issues before the hearing. The Tenant also testified that he intends to file his own application about these issues. Therefore, I did not consider these issues under section 82 of the *Residential Tenancies Act, 2006* (the 'Act').
11. I have considered all the disclosed circumstances in accordance with subsection 83(2) of 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The Tenant asked for 30 days to move out of the rental unit; however, he did not present any concrete evidence in support of this request. The Tenant testified that he requires this extension of time because of health issues he and his dog are experiencing. However, he did not submit any medical documentation in support of these statements. When I consider how long these proceedings have been ongoing, the amount of the arrears, that the Tenant has not made any payments to the Landlord since the application was filed and the prejudice this has caused the Landlord, I find that an 11-day standard order is appropriate.
12. The Landlord's legal representative requested an "expedited" eviction order. However, given that this type of application is not captured by section 84 of the Act, which specifically deals with expedited eviction orders, I am find that a standard 11-day eviction/voiding order is appropriate.

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:**
 - \$23,621.00 if the payment is made on or before July 21, 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 July 21, 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 July 21, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$22,047.57. 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 \$41.59 per day for the use of the unit starting June 24, 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 July 21, 2023, the Tenant will start to owe interest. This will be simple interest calculated from July 22, 2023 at 6.00% annually on the balance outstanding.

8. If the unit is not vacated on or before July 21, 2023, then starting July 22, 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 July 22, 2023.

July 10, 2023
Date Issued

Anna Solomon
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 January 22, 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 July 21, 2023

Rent Owing To July 31, 2023	\$23,435.00
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 the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total the Tenant must pay to continue the tenancy	\$23,621.00

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

Rent Owing To Hearing Date	\$21,861.57
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 last month's rent deposit	- \$
Less the amount of the interest on the last month's rent deposit	- \$0.00
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlord	\$22,047.57
Plus daily compensation owing for each day of occupation starting June 24, 2023	\$41.59 (per day)