



Order under Section 69 Residential Tenancies Act, 2006

Citation: Eshghi moghaddam v Ogunremi, 2023 ONLTB 48184

Date: 2023-07-06

File Number: LTB-L-009817-23

In the matter of: UNIT 4, 374 COOK RD
NORTH YORK ON M3J0A8

Between: Bahram Eshghi Moghaddam Landlord

And

Kolawole Ogunremi Tenant

Bahram Eshghi Moghaddam (the 'Landlord') applied for an order to terminate the tenancy and evict Kolawole Ogunremi (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on June 22, 2023.

The Landlord and the Landlord's Representative David Borrie attended the hearing.

As of 1:46 pm, 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. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

Preliminary Issue:

1. The Landlord served the Tenant with a 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. It states, for example, that rent for January 2021, is owing from "01/01/2021 to **01/12/2021**", instead of from 01/01/2021 to **31/12/2021**.
3. A similar error was made with respect to the rent for 2022, and for 2023.
4. The same error is made on the L1 application.

5. However, the N4 states that the rent charged for 2021, was \$8,280.00, or 12 x \$690.00 = \$8,280.00. The same rent was charged for 2022. The rate was the same in 2023. The N4 clearly states how much rent was paid, and how much rent is owing.
6. The N4 which the Landlord served, does not correctly identify the rental period.
7. Section 43(2) of the *Residential Tenancies Act, 2006* (the 'Act') requires notices of termination to contain adequate "reasons and details". Section 59(2) of the Act requires the N4 to contain the following information:

Contents of notice

(2) The notice of termination shall set out the amount of rent due and shall specify that the tenant may avoid the termination of the tenancy by paying, on or before the termination date specified in the notice, the rent due as set out in the notice and any additional rent that has become due under the tenancy agreement as at the date of payment by the tenant.

8. The Board's *Interpretation Guideline 10: Procedural Issues Regarding Eviction Applications* states the following about potentially defective notices of termination:

If the Notice of Termination is confusing to the degree that a reasonable person could not understand precisely what it means, a Member would find it defective. For example, in some cases this might include: uncertainty about whether the landlord is the person giving the Notice, vagueness about the reason for giving the Notice, a lack of details about the reason, etc. A Notice which only specifies a reason which is not a ground for eviction under the RTA would be invalid; and even adding such a claim to a legitimate ground may confuse the Notice in some cases.

In the end, whether the Notice is adequate is a question of whether it communicates the necessary elements clearly enough that a tenant would be expected to understand it and the options they have. For example, Notices were found invalid which did not state the required information that the tenant need not vacate pursuant to the Notice.

9. Despite the small clerical errors in the N4, I find that the N4 is valid as it clearly states how much rent is owing, \$4,690.00, how much was charged and how much was paid. The Tenant did not attend and thus I did not hear any evidence from them as to whether they were misled by the N4. I am satisfied that a reasonable person would not be confused or misled by the N4 notwithstanding the minor errors. The overall pattern in the N4 made clear the rental periods for which the Landlord was seeking arrears. Moreover, as noted, the amount of rent owed and the amount required to void the notice were correct, and it contained the other information required by the Act.
10. I therefore find that the notice is valid.
11. As of the hearing date, the Tenant was still in possession of the rental unit.

12. The lawful rent is \$690.00. It is due on the 1st day of each month.
13. Based on the Monthly rent, the daily rent/compensation is \$22.68. This amount is calculated as follows: \$690.00 x 12, divided by 365 days.
14. The Tenant has not made any payments since the application was filed.
15. The rent arrears owing to June 30, 2023 are \$7,440.00.
16. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
17. The Landlord collected a rent deposit of \$690.00 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.
18. Interest on the rent deposit, in the amount of \$63.71 is owing to the Tenant for the period from August 1, 2017 to June 22, 2023.
19. I have considered all of 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.
20. The Landlord attempted on 7 occasions to negotiate a payment plan with the Tenant. The Tenant did not respond.
21. The Landlord was not aware of any personal circumstances of the Tenant which would merit relief from eviction.
22. I therefore find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

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:**
 - \$8,316.00 if the payment is made on or before July 17, 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 17, 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 17, 2023**

5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$6,658.57. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. The rent deposit and 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.
6. The Tenant shall also pay the Landlord compensation of \$22.68 per day for the use of the unit starting June 23, 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 17, 2023, the Tenant will start to owe interest. This will be simple interest calculated from July 18, 2023 at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before July 17, 2023, then starting July 18, 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 18, 2023.

July 6, 2023

Date Issued

James Campbell

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 January 18, 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 17, 2023

Rent Owing To July 31, 2023	\$8,130.00
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	\$8,316.00

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

Rent Owing To Hearing Date	\$7,226.28
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	- \$690.00
Less the amount of the interest on the last month's rent deposit	- \$63.71
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	\$6,658.57
Plus daily compensation owing for each day of occupation starting June 23, 2023	\$22.68 (per day)