



Order under Section 69 Residential Tenancies Act, 2006

Citation: Igor Chigrin v Deborah-Lynn Witherell, 2023 ONLTB 47604

Date: 2023-06-30

File Number: LTB-L-079670-22

In the matter of: Lower Unit, 33 MARCUS ST BARRIE
ON L4N3L7

Between: Igor Chigrin and Tatiana Zherebkova Landlords

And

Deborah-Lynn Witherell and Jeffrey Robert Tenants
Witherell

Igor Chigrin and Tatiana Zherebkova (the 'Landlords') applied for an order to terminate the tenancy and evict Deborah-Lynn Witherell and Jeffrey Robert Witherell (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on May 25, 2023.

The Landlord, Igor Chigrin ('IC'), the Landlords' legal representative, Elina Vasilieva, and the Tenant, Deborah-Lynn Witherell ('DW'), attended the hearing.

Determinations:

1. 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.
2. As of the hearing date, the Tenants were still in possession of the rental unit.
3. The lawful rent is \$1,640.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$53.92. This amount is calculated as follows: \$1,640.00 x 12, divided by 365 days.
5. The Tenants have not made any payments since the application was filed.
6. The parties agree that the rent arrears owing to May 31, 2023 are \$9,760.00.

7. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. There is no last month's rent deposit.
9. IC's evidence was that he tried to communicate with DW about arranging a payment plan, without success. IC's attempts included providing DW with information about local rent supplement and housing retention programs, and contact information for Simcoe County. IC said he also assisted DW in applying for Ontario Works.
10. IC said that he lost his job at the end of February 2023, and is still looking for work. The Landlord's are a married couple with three children. Their only source of income presently is from IC's wife's employment. He said that the Landlord have a mortgage to pay for their own home, as well as a mortgage to pay for the rental unit. He said both mortgage payments have increased substantially because of higher interest rates. IC said that his wife's income is not enough to pay for both mortgages and these payments are being subsidized with personal debts. IC said if the Tenants' non-payment of rent continues, the Landlords would have to sell the rental unit and/or take out more personal loans.
11. DW said that she has been filling out the paperwork for a housing subsidy, and has a meeting with her lawyer for a family matter coming up. She said there has been an issue with her ex-husband not making payments to her that he is required to. She said there has also been an issue between what she should be receiving from Ontario Works and/or the Ontario Disability Support Program ('ODSP'). She said she also has a meeting coming up with ODSP.
12. DW said her monthly income is presently \$733.00 from Ontario Works. She does not receive payments from ODSP presently, but believes she is entitled to it.
13. DW presently lives in the rental unit on her own, after Jeffrey Robert Witherell moved out. She said if the tenancy is terminated, she would need 60 days to find new living accommodation.
14. The Landlords have taken all reasonable steps to try to work with the Tenant to salvage the tenancy, even trying to connect her with relevant social supports, but these attempts were unfortunately not met with success. I also recognize that the Landlords are in some financial distress themselves.
15. DW's monthly income is substantially less than the monthly rent. While she may be entitled to some other source of additional income, such as from ODSP or payments from her exhusband, these were not certain and the Tenant was not able to suggest a reasonable plan to pay her monthly rent and rent arrears.
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 August 15, 2023 pursuant to subsection 83(1)(b) of the Act. **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:**
 - \$11,586.00 if the payment is made on or before June 30, 2023. See Schedule 1 for the calculation of the amount owing.
 - OR**
 - \$13,226.00 if the payment is made on or before July 31, 2023. See Schedule 1 for the calculation of the amount owing.
 - OR**
 - \$14,866.00 if the payment is made on or before August 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 August 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 August 15, 2023**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlords \$9,654.00. 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 \$53.92 per day for the use of the unit starting May 26, 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 July 11, 2023, the Tenants will start to owe interest. This will be simple interest calculated from July 12, 2023 at 6.00% annually on the balance outstanding.
8. The Landlords or the Tenants shall pay to the other any sum of money that is owed as a result of this order.
9. If the unit is not vacated on or before August 15, 2023, then starting August 16, 2023, the Landlords may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
10. 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 August 16, 2023.

June 30, 2023

Date Issued

Mark Melchers

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 February 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 June 30, 2023

Rent Owing To June 30, 2023	\$11,400.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlords since the application was filed	- \$0.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlords owes the Tenants for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$11,586.00

B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before July 31, 2023

Rent Owing To July 31, 2023	\$13,040.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlords since the application was filed	- \$0.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlords owes the Tenants for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$13,226.00

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

Rent Owing To August 31, 2023	\$14,680.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlords since the application was filed	- \$0.00

Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlords owes the Tenants for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$14,866.00

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

Rent Owing To Hearing Date	\$9,468.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlords since the application was filed	- \$0.00
Less the amount the Tenants 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 Landlords owes the Tenants for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$0.00
Total amount owing to the Landlords	\$9,654.00
Plus daily compensation owing for each day of occupation starting May 26, 2023	\$53.92 (per day)