



Order under Section 69 Residential Tenancies Act, 2006

Citation: Michael Rogers v John Tremblay, 2023 ONLTB 47207

Date: 2023-06-30

File Number: LTB-L-078999-22

In the matter of: Basement, 1121 CULROSS AVE
PICKERING ON L1V2W6

Between: Michael Rogers Landlord

And

John Tremblay Tenant

Michael Rogers (the 'Landlord') applied for an order to terminate the tenancy and evict John Tremblay (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

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

The Landlord's legal representative, Brandon Singh ('BS'), 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 \$810.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$26.63. This amount is calculated as follows: \$810.00 x 12, divided by 365 days.
5. The Tenant has paid \$2,610.00 to the Landlord since the application was filed.

6. The rent arrears owing to May 31, 2023 are \$5,890.00. The parties before the LTB agreed that these are the correct rent arrears owing.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$800.00 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.
9. Interest on the rent deposit, in the amount of \$41.94 is owing to the Tenant for the period from August 30, 2019 to May 25, 2023.
10. This tenancy began after the rental unit was rented to the Tenant by a tenant of the upstairs unit at the residential complex. The evidence before me was that the Landlord discovered this occupancy in 2019. After the Landlord discovered this occupancy, there was no new tenancy agreement entered into between the Landlord and Tenant. There was also no application to the LTB for an order under section 100 or section 101 of the Act within the relevant 60-day periods. Therefore, the Tenant's occupation of the rental unit was deemed to be an assignment of the rental unit with the Landlord's consent under subsection 104(4) of the Act.
11. The Tenant said that the rent arrears accumulated because he was unable to work due to health issues. After receiving employment insurance for 15 weeks, his doctor would not clear him to go back to work, and his employment insurance could not be extended. It was suggested to the Tenant that he apply for temporary disability benefits. The Tenant said he did this, but it required both medical documents and a copy of his lease. Since there was no written lease between the Landlord and Tenant, he could not do so. The Tenant said he asked the Landlord for a written lease, but one was not provided.
12. The Tenant said that since that time, his medical condition has worsened, and he now receives income from Ontario Works. He said that he receives \$390.00 for shelter, and his total monthly income is \$819.00. The Tenant said that he also has a pending ODSP application. He said that if he is evicted, he would need 60 days to find new living accommodation.
13. BS said that the Landlord is a senior, and has had to use his savings and a line of credit to keep up with mortgage payments.
14. Given that the monthly rent is \$810.00 and the Tenant's monthly income is \$819.00, I find that the chances the Tenant will be able to repay the rent arrears, or even pay the ongoing rent in full, pursuant to a payment plan are remote. I therefore find that it would be unfair in all the circumstances to deny eviction.
15. 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 31, 2023 pursuant to subsection 83(1)(b) 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:**
 - \$6,886.00 if the payment is made on or before June 30, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 - \$7,696.00 if the payment is made on or before July 31, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 - \$8,506.00 if the payment is made on or before August 31, 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 August 31, 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 August 31, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$5,089.81. 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 \$26.63 per day for the use of the unit starting May 26, 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 11, 2023, the Tenant 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 Landlord or the Tenant 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 31, 2023, then starting September 1, 2023, the Landlord 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 Landlord on or after September 1, 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 March 1, 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 June 30, 2023

| | |
|--|-------------------|
| Rent Owing To June 30, 2023 | \$9,310.00 |
| Application Filing Fee | \$186.00 |
| NSF Charges | \$0.00 |
| Less the amount the Tenant paid to the Landlord since the application was filed | - \$2,610.00 |
| 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 | \$6,886.00 |

B. Amount the Tenant 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 | \$10,120.00 |
| Application Filing Fee | \$186.00 |
| NSF Charges | \$0.00 |
| Less the amount the Tenant paid to the Landlord since the application was filed | - \$2,610.00 |

| | |
|---|-------------------|
| 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 | \$7,696.00 |

C. Amount the Tenant 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 | \$10,930.00 |
| Application Filing Fee | \$186.00 |
| NSF Charges | \$0.00 |
| Less the amount the Tenant paid to the Landlord since the application was filed | - \$2,610.00 |
| 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 | \$8,506.00 |

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

| | |
|--|----------------------|
| Rent Owing To Hearing Date | \$8,355.75 |
| Application Filing Fee | \$186.00 |
| NSF Charges | \$0.00 |
| Less the amount the Tenant paid to the Landlord since the application was filed | - \$2,610.00 |
| 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 | - \$800.00 |
| Less the amount of the interest on the last month's rent deposit | - \$41.94 |
| 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 | \$5,089.81 |
| Plus daily compensation owing for each day of occupation starting May 26, 2023 | \$26.63 (per day) |