



Order under Section 69 Residential Tenancies Act, 2006

Citation: Christos Farmakis v Ken Wonch, 2023 ONLTB 46796

Date: 2023-06-30

File Number: LTB-L-070599-22

In the matter of: 1, 536 LINCOLN ST East
WELLAND ON L3B4P4

Between: Christos Farmakis Landlord

And

Ken Wonch Tenant

Christos Farmakis (the 'Landlord') applied for an order to terminate the tenancy and evict Ken Wonch (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on May 9, 2023.

The Landlord and the Landlord's Legal Representative, R. Barber 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 \$860.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$28.27. This amount is calculated as follows: \$860.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to May 31, 2023 are \$6,880.00.
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 \$96.11 is owing to the Tenant for the period from October 1, 2015 to May 9, 2023.

Relief from eviction

10. The Tenant testified that he had his rent money stolen by three men he alleges were sent by the Landlord. He testified that the men entered the unit on December 3, 2022 demanding rent money and said if he didn't, they would come the next day to remove him from the unit. He handed over the approximately 2 months of rent he had in an envelope.
11. The Tenant testified that he is leaving the unit and isn't looking to suggest a payment plan and is agreeable to a standard order. He testified that he is disputing the two months of rent he alleges the Landlord, through the three men that attended his unit, stole from him.
12. Upon cross-examination, the Tenant testified that he told some of his friends that he was withholding rent. He testified that the men who came to his unit were not wearing disguises and he did not report the incident to the police.
13. The Landlord denies that he sent any one to the unit to steal anything from the Tenant.
14. Based on the evidence before me, on a balance of probabilities, I do not find that the Landlord was involved in the incident that took place at the Tenant's unit on December 3, 2023. It makes little sense to me that the three men would identify themselves as being sent by the Landlord, wearing nothing to conceal their appearance, and demand rent money, a couple of days after the Landlord had already started the legal process to terminate the Tenancy and collect the rent owed. The Tenant did not submit any evidence to support that he reported this incident to the police. As such, I am not persuaded that the Landlord had anything to do with this incident. The Tenant testified that some of his friends were aware that he had some rent money at his unit, and although it may be hard for the Tenant to believe, I agree with the Landlord's representative's submission that his friends could just as likely be behind the theft.
15. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (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 testified that he is vacating the rental unit.

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:**
 - \$7,926.00 if the payment is made on or before June 30, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 - \$8,786.00 if the payment is made on or before July 11, 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 11, 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 11, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$5,564.32. 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 \$28.27 per day for the use of the unit starting May 10, 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 July 11, 2023, then starting July 12, 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 July 12, 2023.

June 30, 2023
Date Issued

Emily Robb
 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 12, 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	\$7,740.00
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	\$7,926.00

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before July 11, 2023

Rent Owing To July 31, 2023	\$8,600.00
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	\$8,786.00

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

Rent Owing To Hearing Date	\$6,274.43
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	- \$800.00
Less the amount of the interest on the last month's rent deposit	- \$96.11
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	\$5,564.32
Plus daily compensation owing for each day of occupation starting May 10, 2023	\$28.27 (per day)