



**Order under Section 69
Residential Tenancies Act, 2006**

Citation: Gun Chung v Krista Magee, 2023 ONLTB 41630

Date: 2023-06-08

File Number: LTB-L-071888-22

In the matter of: UNIT 1 (DOWN), 559 ASSUMPTION ST
WINDSOR ON N9A3B3

Between: Gun Chung Landlord

And

Krista Magee and Thomas Burrell Tenants

Gun Chung (the 'Landlord') applied for an order to terminate the tenancy and evict Krista Magee and Thomas Burrell (the 'Tenants') because the Tenants did not pay the rent that the Tenants owes.

This application was heard by videoconference on May 24, 2023 at 1:00 p.m.

The Landlord, represented by Curt Anderson, a licensed Paralegal, and the Tenant, Krista Magee, attended the hearing.

As of 1:53 p.m., the Tenant Thomas Burrell 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 one Tenant present.

Determinations:

1. The Landlord 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 was still in possession of the rental unit.
3. The lawful rent is \$936.35. It is due on the first day of each month.

4. Based on the Monthly rent, the daily rent/compensation is \$30.78. This amount is calculated as follows: $\$936.35 \times 12$, divided by 365 days.
5. The Tenants has not made any payments since the application was filed.
6. The rent arrears owing to May 31, 2023 are \$1,872.70.
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 \$900.00 from the Tenants 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. The Landlord's representative submitted that all rental arrears has been paid and that only \$174.76 of the application filing fee remaining outstanding.
10. The Tenant disputed the application filing fee stating that the Landlord did not have file that application, that they knew that they would eventually be paid outstanding rent.
11. As per the Tenant's own submission, rental arrears had accumulated; aside from the submission by the Tenant those rental arrears were going to be paid no further documents and or submissions were made to support that those rental arrears would be paid. The Landlord was exercising their right to address the issue of non-payment of rent by the Tenants, which includes filing an application to the Board and which bears an application filing fee.
12. The Board finds that the Tenants are responsible for the payment of the outstanding application filing fee balance of \$174.76
13. 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 grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act. Although the Tenant vehemently opposed being required to pay the application fee and was vocal in her opposition, I will not be issuing an order for the tenancy to be terminate however will be ordering the Tenants to pay the outstanding application fee as set out in the "It is order that" section below.

It is ordered that:

1. The Tenants shall pay to the Landlord the sum of \$174.76, the balance owing for the application filing fee of \$186.00, that the Landlord filed with the Board on or about November 28, 2022.
2. The Tenants shall pay to the Landlord the amount set-out in paragraph 2 in accordance with the following schedule:

- a) Starting on or before the 15th day of June, 2023 and on or before the 15th day of each month for the following 10 months, July 2023 to April 2024, the Tenants shall pay to the Landlord the sum of \$15.00 that shall be applied to the outstanding application filing fee amount owing.
 - b) On or before May 15th, 2024 the Tenants shall pay to the Landlord the sum of \$9.76 in full and final settlement of all costs claimed in this application.
3. If the Tenants do not pay the Landlord the full amount owing as set out in paragraph 2, then the balance remaining will become due and payable immediately and the Tenants will start to owe interest. This will be simple interest calculated from the next day of the default day at 6.00% annually on the balance outstanding.

June 8, 2023

Date Issued

Peter Pavlovic

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.