



Order under Section 69 Residential Tenancies Act, 2006

Citation: K & M Henry c/o Lionheart Property Management v Denva Hamilton, 2023 ONLTB
41197

Date: 2023-06-08

File Number: LTB-L-076787-22

In the matter of: 88, 1318 Highbury Ave N
London ON N5Y5E5

Between: K & M Henry c/o Lionheart Property Management Landlord

And

Denva Hamilton Tenants
Lisa Ruddell

K & M Henry c/o Lionheart Property Management (the 'Landlord') applied for an order to terminate the tenancy and evict Denva Hamilton and Lisa Ruddell (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, Kelly Henry, the Landlord's legal representative, Gail Kukor-Lang, and the Tenant, Lisa Ruddell, attended the hearing. Ms. Rudell confirmed that she had the authority to speak on behalf of herself and the other Tenant. The Tenant also spoke with Tenant Duty Counsel on the hearing day.

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 were still in possession of the rental unit.

3. The lawful rent is \$2,100.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$69.04. This amount is calculated as follows: \$2,100.00 x 12, divided by 365 days.
5. The Tenants have not made any payments since the application was filed.
6. The parties agreed that the rent arrears owing to May 31, 2023 are \$16,699.70.
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 \$2,100.00 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. Interest on the rent deposit, in the amount of \$43.58 is owing to the Tenants for the period from July 27, 2022 to May 25, 2023.
10. Mr. Hamilton had lost their job back in the fall of 2022 when their immigration status changed and has just recently gained reemployment. Ms. Ruddell lost her job in February and the Tenants have had limited to no income coming in their household since that time. The Tenant was hopeful that starting in July that they could pay the rent plus \$500.00 on top of the rent in order to preserve the tenancy. However, the Tenant was unsure exactly how much income they would have after taxes in order to pay the rent or reduce their debt with the Landlord.
11. Additionally, the Tenant proposed that they could make payments totalling \$1,000.00 in June if the Landlord would give them more time to secure alternative housing.
12. The Landlord and their spouse are retirees and the loss of income from the rent not being paid has caused significant financial hardship for them. The Landlord felt it would be substantially prejudicial to grant an extension beyond June 30th on the basis that the \$1,000.00 proposed for an extension would not even cover a half of a month's rent.
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 postpone the eviction until June 30, 2023 pursuant to subsection 83(1)(b) of the Act. An oral decision was provided to the parties at the hearing.

It is ordered that:

1. The tenancy between the Landlord 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 Landlord or to the LTB in trust:**
 - \$18,985.70 if the payment is made on or before June 30, 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 June 30, 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 June 30, 2023**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$14,368.12. 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 Tenants. See Schedule 1 for the calculation of the amount owing.
6. The Tenants shall also pay the Landlord compensation of \$69.04 per day for the use of the unit starting May 26, 2023 until the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before June 19, 2023, the Tenant will start to owe interest. This will be simple interest calculated from June 20, 2023 at 6.00% annually on the balance outstanding.
8. The Landlord 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 June 30, 2023, then starting July 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 July 1, 2023.

June 8, 2023

Date Issued

Terri van Huisstede
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 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.

*Note: When the Board directs payment-out, the Canadian Imperial Bank of Commerce will issue a cheque to the appropriate party named in this notice. The cheque will be in the amount directed plus any interest accrued up to the date of the notice

**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	\$18,799.70
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord 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 Landlord owes the Tenants for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants are entitled to	- \$0.00
Total the Tenant must pay to continue the tenancy	\$18,985.70

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

Rent Owing To Hearing Date	\$16,325.70
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord 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	- \$2,100.00
Less the amount of the interest on the last month's rent deposit	- \$43.58
Less the amount the Landlord owes the Tenants for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants are entitled to	- \$0.00
Total amount owing to the Landlord	\$14,368.12
Plus daily compensation owing for each day of occupation starting May 26, 2023	\$69.04 (per day)