



Order under Section 69 Residential Tenancies Act, 2006

Citation: Yulia Korsakov v Joel Lapointe, 2023 ONLTB 41020

Date: 2023-06-05

File Number: LTB-L-066932-22

In the matter of: 112 FAIRLANE AVE
BARRIE ON L9J0M9

Between: Dmitri Korsakov and Yulia Korsakov Landlord

And

Joel Lapointe and Kaila Potter Tenants

Dmitri Korsakov and Yulia Korsakov (the 'Landlord') applied for an order to terminate the tenancy and evict Joel Lapointe and Kaila Potter (the 'Tenants') because the Tenants did not pay the rent that the Tenants owes.

This application was heard by videoconference on May 11, 2023.

The Landlord Yulia Korsakov, their Representative Evgeny Aptekar, and the Tenant Joel Lapointe attended the hearing.

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 Tenant Joel Lapointe ('J.L') was still in possession of the rental unit.
3. The lawful rent is \$2,800.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$92.05. This amount is calculated as follows: \$2,800.00 x 12, divided by 365 days.

5. The Tenants have not made any payments since the application was filed.
6. The Landlord submits that the rent arrears to May 31, 2023 at \$21,000.00.
7. The Tenant Joel Lapointe ('J.L.') disagrees with that amount but agrees he has made no payments since November 2022. The Tenant states that there are several maintenance issues including that the yard is still under construction and there has been flooding in the basement. The Tenant also testified that the Landlord has reported his arrears to a credit reporting agent. The Tenant did not file any list of tenant issues in accordance with section 82 and as such I cannot award a rent abatement subject to that section.
8. The rent arrears owing to May 31, 2023 are \$21,000.00.
9. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
10. The Landlord submits that they are still holding a \$2,800.00 rent deposit. The Tenant J.L. submits that he paid three months rent when he moved in. This matches the Landlord's evidence that the first month of the tenancy in August 2022 was paid, September 2022 was paid, and the last month's deposit is still being held. As such I find that the only remaining portion of the deposit is \$2,800.00.
11. The Landlord collected a rent deposit of \$2,800.00 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.
12. Interest on the rent deposit, in the amount of \$38.75 is owing to the Tenants for the period from August 6, 2022 to May 11, 2023.
13. The Tenant J.L. requests relief from eviction in the form of a repayment plan. The Tenant testified that he could pay \$3,500.00 towards the arrears. The Tenant testified that he owns a small company and has an influx of cash at the moment. The Tenant testified that the reason he has not been paying rent is because the Landlord and him could not come to an agreement about an appropriate repayment plan and the Landlord would not remove the note from his credit.
14. The Landlord is opposed to a repayment plan.
15. I do not think it would be fair in the circumstances to impose a repayment plan as I am not satisfied that the Tenants would abide by it. The Tenants have made no payments in 7 months. The Tenant J.L.'s explanation that the reason for the lack of payments is because the parties had not yet agreed to a repayment plan is not reasonable. That the parties had not yet agreed to repayment of arrears does not relieve the Tenants from their obligation to pay new rent that comes due. Additionally, according to the Tenant J.L.'s own evidence at the time of the hearing he had a large amount of money, yet he has chosen not to pay any of the outstanding arrears. As such, I am not satisfied that the Tenant will abide by a repayment plan in the future.

16. The Tenant J.L requests a delayed eviction until July 31, 2023. The Tenant testified that he runs a small business and moving will be extremely difficult at the moment.
17. The Landlord is opposed to any delay.
18. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including J.L's maintenance concerns and that the Landlord has attempted to negotiate a repayment agreement, and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. I have also considered that the Tenant J.L testified that he could afford \$3,500.00 biweekly towards the arrears. As such I am not satisfied that the Tenant J.L requires a delayed eviction in order to acquire the funds to find new living accommodations. While the act itself of moving will cause inconvenience, I must also consider that the Landlord has been without any payment of rent for 7 months.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants voids this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$23,986.00 if the payment is made on or before June 16, 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 has paid the full amount owing as ordered plus any additional rent that became due after June 16, 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 16, 2023.**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$16,559.80. 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 \$92.05 per day for the use of the unit starting May 12, 2023 until the date the Tenants moves out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before June 16, 2023, the Tenants will start to owe interest. This will be simple interest calculated from June 17, 2023 at 6.00% annually on the balance outstanding.

8. If the unit is not vacated on or before June 16, 2023, then starting June 17, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
9. 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 June 17, 2023.

June 5, 2023
Date Issued

 Amanda Kovats
 Member, Landlord and Tenants 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 December 17, 2023 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 16, 2023

Rent Owing To June 30, 2023	\$23,800.00
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
Total the Tenants must pay to continue the tenancy	\$23,986.00

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

Rent Owing To Hearing Date	\$19,212.55
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	- \$2,800.00

Less the amount of the interest on the last month's rent deposit	- \$38.75
Total amount owing to the Landlord	\$16,559.80
Plus daily compensation owing for each day of occupation starting May 12, 2023	\$92.05 (per day)