



Order under Section 69 Residential Tenancies Act, 2006

Citation: Equiton Residential Income Fund LP v Julio Benitez Montes, 2023 ONLTB 40332

Date: 2023-06-01

File Number: LTB-L-070129-22

In the matter of: 410, 223 WOODBINE AVE TORONTO
ON M4L3P3

Between: Equiton Residential Income Fund LP Landlord

And

Julio Benitez Montes Tenant

Equiton Residential Income Fund LP (the 'Landlord') applied for an order to terminate the tenancy and evict Chevonne Wint (the 'Former Tenant') and Julio Benitez Montes (the 'Tenant') because the Former Tenant and the Tenant did not pay the rent that the Former Tenant and Tenant owes.

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

The Landlord attended the hearing. The Landlord was represented by Daniel Abraham.

As of 1:41 p.m., neither the Former Tenant, nor the Tenant were 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 Landlord's evidence.

PRELIMINARY MATTERS

1. The Landlord's legal representative made a request to amend the application to remove the Former Tenant from the application after an N15 Notice was issued to the Landlord. This request was granted.

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 \$1,995.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$65.59. This amount is calculated as follows: \$1,995.00 x 12, divided by 365 days.

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5. The Tenant has paid \$6,071.00 to the Landlord since the application was filed.
6. The rent arrears owing to May 31, 2023 are \$6,489.00.
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 \$2,135.71 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 \$35.69 is owing to the Tenant for the period from September 8, 2022 to May 9, 2023.
10. 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 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.

It is ordered that:

1. The Tenant shall pay to the Landlord \$6,775.00, which represents the arrears of rent (\$6,589.00) and costs (\$186.00) outstanding for the period ending May 31, 2023.
2. The Landlord's application for eviction of the Tenant is denied on the condition that:
 - (a) The Tenant shall make the following payments to the Landlord in respect of the monies owing under paragraph 1 of this order:

Payment	Due Date
\$600.00	May 18, 2023
\$600.00	May 25, 2023
\$600.00	June 1, 2023
\$600.00	June 8, 2023

\$600.00	June 15, 2023
\$600.00	June 22, 2023
\$600.00	June 29, 2023
\$600.00	July 6, 2023
\$600.00	July 13, 2023
\$600.00	July 20, 2023
\$600.00	July 27, 2023
\$175.00	August 3, 2023

(b) The Tenant shall pay the lawful monthly rent for June 2023 on or before June 15, 2023, if not already paid;

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(c) The Tenant shall also pay the Landlord the lawful monthly rent as it becomes due on or before the 1st day of the month starting July 1, 2023 until the arrears are paid in full.

3. If the Tenant fails to make any of the payments in accordance with paragraph 2, and by the dates required, then:

(a) The Landlord may apply, without notice to the Tenant, under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenant, and for the payment of any new arrears of rent and NSF charges not already ordered under paragraph 1 of this order. The Landlord must make the application within 30 days of a breach of a condition set out in paragraph 2 of this order.

(b) The balance owing under paragraph 1 of this order shall become payable on the day following the date of default. The monies shall bear interest at the post-judgement interest rate determined under subsection 207(7) of the Act.

June 1, 2023
Date Issued

Emile Ramlochan

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.