



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

Citation: Heath Residences v Lubov Nikolayevsky, 2023 ONLTB 39943

Date: 2023-05-31

File Number: LTB-L-038175-22

In the matter of: 145, 325 BOGERT AVE, NORTH YORK ON M2N1L8

Between: Heath Residences Landlord

And

Genady Nikolayevsky Tenants
Lubov Nikolayevsky

Heath Residences (the 'Landlord') applied for an order to terminate the tenancy and evict Genady Nikolayevsky and Lubov Nikolayevsky (the 'Tenants') because:

- the Tenants have been persistently late in paying the Tenants' rent.

The Landlord also claimed compensation for each day the Tenants remained in the unit after the termination date.

This application was heard by videoconference on May 10, 2023.

Only the Landlord's representative, Charlie Bobrowky attended the hearing.

As of 9:37a.m., the Tenants were 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 Landlord's evidence.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. However, I find that it would not be unfair to grant relief from eviction on the condition that the Tenant pay the rent on time for a 12-month period
2. The Tenants were in possession of the rental unit on the date the application was filed.
3. On June 20, 2022, the Landlord gave the Tenants an N8 notice of termination. The notice of termination alleges that the Tenants paid the rent late for the following months: July 2021 to

May 2022. Based on the Landlord's uncontested evidence, I find that the Tenants have been persistently late in paying the rent.

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4. The Landlord's representative submitted that since the notice was served and the application filed on August 31, 2022, the Tenants have paid the rent on time. As such, they are not seeking eviction, rather a conditional pay on time order for a period of 1 year.
5. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
6. 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.

It is ordered that:

1. The tenancy between the Landlord and the Tenants continues if the Tenants meet the conditions set out below.
2. Starting July 1, 2023 and continuing through June 30, 2024, the Tenants shall pay the monthly rent on or before the first day of each month.
3. If the Tenants fail to comply with the conditions set out in paragraph 2 of this order, the Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenants. The Landlord must make the application within 30 days of a breach of a condition. This application is made to the LTB without notice to the Tenants.
4. The Tenants shall also pay to the Landlord \$186.00 for the cost of filing the application on or before June 11, 2023.
5. If the Tenants do not pay the Landlord the full amount owing on or before June 11, 2023, the Tenant will start to owe interest. This will be simple interest calculated from June 12, 2023 at 6.00% annually on the balance outstanding.

May 31, 2023

Date Issued

Camille Clyne

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.

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