



Order under Section 69 Residential Tenancies Act, 2006

Citation: Pinedale Properties Ltd v Sydney Henningham, 2023 ONLTB 39557

Date: 2023-05-29

File Number: LTB-L-068052-22

In the matter of: 101, 9 BERGAMOT AVE
ETOBICOKE ON M9W1W2

Between: Pinedale Properties Ltd Landlord

And

Sydney Henningham Tenant

Pinedale Properties Ltd (the 'Landlord') applied for an order to terminate the tenancy and evict Sydney Henningham (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

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

The Landlord's Legal Representative, Sabrina Sciulli, and the Tenant attended the hearing. The Tenant consulted with Tenant Duty Counsel prior to the commencement of the hearing.

Before me, the parties requested an order on consent that would effectively be a standard voidable order containing a specific voiding date of May 31, 2023, with no need of going into June 2023. By standard order, I mean the order would set out two options for the Tenant to take action on. The first option will be a "pay and stay" order which would allow for the tenancy to continue intact if all arrears/costs are paid by May 31, 2023. The second option will be a termination order that sets out the dollar amount of arrears owing as of the date of this hearing, and then calculating forward until the Tenant vacates the unit.

The parties both agreed that \$2,323.60 were owing in rent arrears and costs by the Tenant, up to May 31, 2023. I was satisfied the parties understood the consequences of their joint submission.

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 monthly rent is \$1,886.36. It is due on the 1st day of each month.

4. Based on the monthly rent, the daily rent/compensation is \$62.02. This amount is calculated as follows: $\$1,886.36 \times 12$, divided by 365 days.
5. The Tenant has paid \$12,930.00 to the Landlord since the application was filed.
6. After accounting for the Tenant's payment (para. 5), the rent arrears owing to May 31, 2023 are \$2,137.60.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The total amount owing by the Tenant for rent arrears and costs is therefore \$2,323.60, up to May 31, 2023.
9. The Landlord collected a rent deposit of \$1,877.00 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.
10. Interest on the rent deposit, in the amount of \$36.38 is owing to the Tenant for the period from August 1, 2022 to May 10, 2023.
11. Due to the parties' request for a standard voidable order on consent up to a specific date, there were no disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and so I find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

On consent of the parties, it is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
2. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$2,323.60 if the payment is made on or before May 31, 2023. See Schedule 1A for the calculation of the amount owing.
3. The Tenant may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenant has paid the full amount owing as ordered plus any additional rent that became due after May 31, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
4. **If the Tenant does not pay the amount required to void this order the Tenant must move out of the rental unit on or before May 31, 2023.**
5. As of the date of the hearing (May 10, 2023), the amount of the rent deposit and interest the Landlord owes on the rent deposit exceeds the arrears of rent, compensation and the cost of filing the application the Landlord is entitled to by \$855.94. See Schedule 1B for the calculation of the amount owing. However, the Landlord is authorized to deduct from the amount owing to the Tenant \$62.02 per day for compensation for the use of the unit starting May 11, 2023 until the date the Tenant moves out of the unit.
6. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.

7. If the unit is not vacated on or before May 31 2023, then starting June 1, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
8. 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 1, 2023.

May 29, 2023
Date Issued

Alex Brkic
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 December 1, 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.

*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 Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before May 31, 2023

Rent Owing To May 31, 2023	\$15,067.60
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$12,930.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Total the Tenant must pay to continue the tenancy	\$2,323.60

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

Rent Owing To Hearing Date	\$13,801.44
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$12,930.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$1,877.00
Less the amount of the interest on the last month's rent deposit	- \$36.38
Total amount owing to the Landlord	\$(855.94)
Plus daily compensation owing for each day of occupation starting May 11, 2023	\$62.02 (per day)