



Order under Section 69 Residential Tenancies Act, 2006

Citation: Bekim Asllani v Jermaine Brosseau, 2023 ONLTB 38741

Date: 2023-05-19

File Number: LTB-L-057009-22

In the matter of: 34 PRINS AVE
HAMILTON ON L8E3K4

Between: Bekim Asllani Landlord

And

Jermaine Brosseau, Kayla Brosseau and Sara Lochrie Tenants

Bekim Asllani (the 'Landlord') applied for an order to terminate the tenancy and evict Jermaine Brosseau, Kayla Brosseau and Sara Lochrie (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on April 13, 2023.

The Landlord, the Landlord's representative AT Dhami and the Tenant K Brosseau attended the hearing.

Determinations:

1. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Non-payment 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 \$3,036.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$99.81. This amount is calculated as follows: \$3,036.00 x 12, divided by 365 days.
5. The Tenants have paid \$17,000.00 to the Landlord since the application was filed.
6. The application names Ciara Brosseau, Mavis Lochrie, Montana Lochrie and Zach Brosseau as respondents. However, these individuals are the Tenants' children.
7. The application is amended to remove the Tenants' minor children as parties. Occupants and minor children are not properly named as respondents in a rent arrears application.

Amount of Rent Arrears

8. The Landlord testified that the Tenants have not paid costs related to the utilities and on the application the Landlord applied rent payments made by the Tenants for September, 2023 and October, 2023 towards the utilities, not the rent. The Tenants had not asked the Landlord to apply their payments in this way and the Landlord agreed that these payments should be applied to the rent. The Landlord must file the correct application with the Board to claim money for unpaid utilities.
9. The N4 Notice correctly applies the payments made by the Tenants to the arrears and is therefore valid.
10. The application is amended to apply these payments to the rent. Once the amendment is made, the rent arrears owing to April 30, 2023 are \$6,680.00.
11. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
12. There is no last month's rent deposit.

Relief from Eviction

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 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.
14. The Tenant K Brousseau testified that they would like to maintain their tenancy. The Tenant offered a repayment plan to the Landlord. The Tenant explained that there are three adults and 4 children residing in the unit.
15. The Landlord said they opposed the repayment plan and asked that the tenancy be terminated.
16. I have considered the submissions of the Tenant and the Landlord and find that it would not be unfair in the circumstances to grant the Tenants the opportunity to continue their tenancy with a payment plan. Since the application was filed, the Tenants have been making payments to reduce the rent arrears, and the payment plan will pay the remaining arrears in five months. This will allow the Tenants to stay in the rental unit and maintain their connection to the local community.

It is ordered that:

1. The Tenant shall pay the Landlord **\$6,866.00**, which represents the arrears of rent and costs outstanding for the period ending April 30, 2023

2. The Landlord's application for eviction of the Tenant is denied on the condition that:
 - a) The Tenant shall pay the Landlord the amount set out in paragraph one as follows:
 1. \$1,500.00 on or before June 15, 2023;
 2. \$1,500.00 on or before July 15, 2023;
 3. \$1,500.00 on or before August 15, 2023;
 4. \$1,500.00 on or before September 15, 2023;
 5. \$866.00 on or before October 15, 2023.
 - b) The Tenants shall also pay to the Landlord new rent for May 2023 no later than May 20, 2023.
 - c) The Tenants shall also pay to the Landlord new rent on time and in full as it comes due and owing for the period June 1, 2023 to October 1, 2023 or until the arrears are paid in full, whichever date is earliest.
3. If the Tenants fail to make any one of the payments in accordance with this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenants to the Landlord pursuant to paragraph 1 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenants, apply to the LTB within 30 days of the Tenants' breach pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenants and requiring that the Tenants pay any new arrears, NSF fees and related charges that became owing after April 30, 2023.

May 19, 2023
Date Issued

Heather Kenny
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.