



Order under Section 69 Residential Tenancies Act, 2006

Citation: Jaswant Bahra v Allison Ali, 2023 ONLTB 38632

Date: 2023-05-19

File Number: LTB-L-074571-22

In the matter of: 2, 14 Braemore Road
Brampton ON L6X1E5

Between: Jaswant Bahra Landlord

And

Allison Ali and Hector Perez Tenants

Jaswant Bahra (the 'Landlord') applied for an order to terminate the tenancy and evict Allison Ali and Hector Perez (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on May 11, 2023 at 9:00 a.m.

The Landlord and the Tenants attended the hearing. Each party was self-represented.

Preliminary Issue 1:

1. The Tenants submitted that the “notice” that they were provided was defective, that “Hector” Perez’s name was printed as “Hecto”.
2. I examined the Notice to End your Tenancy For Non-payment of Rent - Form N4 (the “N4 Notice”). I found that N4 Notice to have the correct spelling of the Tenants’ name.
3. Further examination of the file revealed that the Landlord’s application had the incorrect spelling of the Tenants’ name, the missing letter “R” for Hector. I noted that the Tenants attended the hearing to bring the matter to light.
4. The Tenants requested to amend the application; the Landlord consented to the request. The Board consented to the amendment. The Tenants’ name will be amended to be “Hector”.

Preliminary Issue 2:

1. The Tenants submitted that they did not receive the N4 Notice.

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2. The Landlord had submitted to the Board a Certificate of Service signed and dated December 6, 2022 that certifies that the Landlord gave the Tenants the N4 Notice by hand on November 15, 2022.
3. Under oath, the Landlord further confirmed that he personally handed Tenant, Hector Perez, the N4 Notice on November 15, 2022
4. The Tenants submitted that they “had not seen the Landlord for months”, however he did come to the house on that date, November 15, 2022, to check the furnace. Tenant Alison Ali submitted that she was present that day and does not remember being given an envelope.
5. My ruling was that I am satisfied that pursuant to the Landlord’s submission of the Certificate of Service and oral testimony that Landlord had properly served the Tenants with the N4 Notice.

Preliminary Issue 3:

1. The Tenants submitted that the N4 Notice was incorrect, that they had made payments that the Landlord had not accounted for.
2. The Tenants submitted to the Board 6 “screen captures” of what appeared to be TD-Bank on-line banking transactions as follows:

	Transaction date	Amount	Recipient	Message
1.	January 20, 2023	\$140.00	Jaswant B	Details do not appear
2.	January 27, 2023	\$140.00	Jaswant B	Details do not appear
3.	February 3, 2023	\$ 70.00	Jaswant B	“gas bill..rent next week”
4.	February 10, 2023	\$ 70.00	Jaswant B	Details do not appear
5.	February 17, 2023	\$100.00	Jaswant B	Details do not appear
6.	April 21, 2023	\$100.00	Jaswant B	Details do not appear

3. The Tenants explained that they were responsible for 40% of the utility costs of the building where the rental unit is located and paid when advised how much the bill was. The Tenants further explained that they had an agreement with the Landlord to pay rent when they had the resources to do so. 5 of the 6 screen captures that the Tenants provided do not provide detail to determine what the payments are directed to. Payment #3 actually provides me with a negative inference, because it specifies where the payment is directed, leads me to believe that these payments are for utility payments.
4. My ruling is that I am not persuaded to believe that the payments noted in paragraph 2 were for rent or rental arrears and that the Landlord’s N4 Notice does not omit any payments that the Tenants have submitted for review.

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 was still in possession of the rental unit.
3. The lawful rent is \$1,300.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$42.74. This amount is calculated as follows: \$1,300.00 x 12, divided by 365 days.
5. The Tenants have not made any payments since the application was filed.
6. The rent arrears owing to May 31, 2023 are \$10,300.00.
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 \$1,300.00 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.
9. Interest on the rent deposit, in the amount of \$28.05 is owing to the Tenants for the period from July 1, 2022 to May 11, 2023.
10. 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 postpone the eviction until June 30, 2023 pursuant to subsection 83(1)(b) of the Act.
11. I received submissions from the Tenants that they would like their 5 year old daughter to finish the year at her present school and that they required 6 months to find alternative accommodations.
12. The Landlord argued that the rental arrears were significant and that any further delays would cause further financial issues for him and his family.
13. As noted in paragraph 11, I have granted the Tenants' request to allow their daughter to complete the year in her present school without the disruption of moving and have allowed them an additional month to locate alternative accommodations.

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:**
 - \$10,486.00 if the payment is made on or before May 31, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 - \$11,786.00 if the payment is made on or before June 30, 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 have paid the full amount owing as ordered plus any additional rent that became due after June 30, 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 30, 2023**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$10,703.09. 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 \$42.74 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 May 30, 2023, the Tenants will start to owe interest. This will be simple interest calculated from May 31, 2023 at 6.00% annually on the balance outstanding.
8. The Landlord or the Tenants shall pay to the other any sum of money that is owed as a result of this order.
9. If the unit is not vacated on or before June 30, 2023, then starting July 1, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
10. 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 July 1, 2023.

May 18, 2023
Date Issued

Peter Pavlovic
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 January 1, 2024 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 May 31, 2023

Rent Owing To May 31, 2023	\$10,300.00
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
Less the amount the Landlord owes the Tenants for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$10,486.00

B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before June 30, 2023

Rent Owing To June 30, 2023	\$11,600.00
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
Less the amount the Landlord owes the Tenants for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$11,786.00

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

Rent Owing To Hearing Date	\$9,631.20
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	- \$1,300.00
Less the amount of the interest on the last month's rent deposit	- \$28.05
Less the amount the Landlord owes the Tenants for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$0.00
Total amount owing to the Landlord	\$8,489.15
Plus daily compensation owing for each day of occupation starting May 12, 2023	\$42.74 (per day)

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