



Order under Section 69 Residential Tenancies Act, 2006

Citation: CAPREIT LIMITED PARTNERSHIP v Nimi, 2023 ONLTB 36194

Date: 2023-05-19

File Number: LTB-L-044090-22

In the matter of: 602, 7 ROANOKE RD
NORTH YORK ON M3A1E3

Between: CAPREIT LIMITED PARTNERSHIP

Landlord

And

Patrick Ndongol Nimi Tenants
Tshitshi Tshilumba

CAPREIT LIMITED PARTNERSHIP (the 'Landlord') applied for an order to terminate the tenancy and evict Patrick Ndongol Nimi and Tshitshi Tshilumba (the 'Tenants') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on April 27, 2023.

The Landlord's Legal Representative Jason Paine and the Tenants attended the hearing.

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 \$2,008.82. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$66.04. This amount is calculated as follows: \$2,008.82 x 12, divided by 365 days.
5. The Tenant has paid \$5,000.00 to the Landlord since the application was filed.
6. The rent arrears owing to April 30, 2023 are \$14,759.85.

7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. There is no last month's rent deposit.
9. The Tenant testified about their family income and expenses and employment status. They stated that they also have a minor child in the home. The Board was not satisfied that the Tenants could afford the rent and make reasonable payments towards arrears of rent. They had proposed a payment plan that would have taken in excess of 56 months to pay.
10. The Landlord submitted that the Tenant had not made payments in good faith such that a reasonable payment plan might be considered and as such requested eviction.
11. 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 Tenants and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenant 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:**
 - \$16,954.67 if the payment is made on or before May 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 Tenant has paid the full amount owing as ordered plus any additional rent that became due after May 30, 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 Tenants do not pay the amount required to void this order the Tenant must move out of the rental unit on or before May 30, 2023**
5. If the Tenants does not void the order, the Tenants shall pay to the Landlord \$14,720.11. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
6. The Tenants shall also pay the Landlord compensation of \$66.04 per day for the use of the unit starting April 28, 2023 until the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before May 30, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 31, 2023 at 6.00% annually on the balance outstanding.

- 8. If the unit is not vacated on or before May 30, 2023, then starting May 31, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
- 9. 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 May 31, 2023.

May 19, 2023

Date Issued

Robert Patchett

Vice Chair, Landlord and Tenant Board

André-Paul Baillargeon-Smith

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 November 30, 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 30, 2023

Rent Owing To May 31, 2023	\$21,768.67
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$5,000.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00

Less the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total the Tenant must pay to continue the tenancy	\$16,954.67

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

Rent Owing To Hearing Date	\$19,534.11
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$5,000.00
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	- \$
Less the amount of the interest on the last month's rent deposit	- \$0.00
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlord	\$14,720.11
Plus daily compensation owing for each day of occupation starting April 28, 2023	\$66.04 (per day)