



Order under Section 69 Residential Tenancies Act, 2006

Citation: JLB INVESTMENTS v Ali Gholami, 2023 ONLTB 38274

Date: 2023-05-18

File Number: LTB-L-070898-22

In the matter of: 404, 595 MAJOR MACKENZIE DR E RICHMOND
HILL ON L4C1J6

Between: J LB INVESTMENTS Landlord

And

Ali Gholami Tenant

JLB INVESTMENTS (the 'Landlord') applied for an order to terminate the tenancy and evict Ali Gholami (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, David Ciobotaru, the Landlord's Agent, Frank Bosso, the Tenant, and the Tenant's interpreter, Niloufer Motevekei, 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 \$1,257.06. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$41.33. This amount is calculated as follows: \$1,257.06 x 12, divided by 365 days.
5. The Tenant has paid \$7,398.61 to the Landlord since the application was filed.
6. The rent arrears owing to May 31, 2023 are \$4,988.03.
7. There is no last month's rent deposit.

8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. Section 82

The Tenant raised the following issues pursuant to section 82 of the *Residential Tenancies Act, 2006* (the 'Act') with respect to the Landlord's failure to repair or maintain his fridge, stove, leaky pipes and leaky facet. For the reasons below, I do not find that the Landlord breached its obligations to maintain and repair.

The Tenant says that his fridge and stove needed repair as of August 2021. The stove was burning his food and the fridge would not keep his food cold. He says he bought a new fridge and stove in January 2023 at a cost of \$3,580.99. The Tenant further testified that on September 15, 2022, the pipes under his kitchen sink began to leak and his faucet needed to be replaced. He informed the superintendent who didn't do anything. The Tenant called his own plumber who replaced the pipes and the faucet on September 25, 2023 at a cost of \$1,020.39.

I do not find the Tenant has proven there were issues with his fridge and stove. I say this because the Tenant says the issues began in August 2021. The Tenant filed a T6 application on August 14, 2019 (LTB-T-075488-22) which was heard on November 30, 2022. The application was not amended to include claims for the fridge and stove and the Tenant did not raise these issues at the hearing. Had the Tenant been experiencing the issues, I would expect that he would have brought up the issues at the hearing of his T6 application or at least amend his application to include the claims. The Tenant did not provide a satisfactory reason for not doing so.

Even if I am incorrect in my finding above, the Landlord's Agent testified that they have spare fridges and stoves from vacant units that were offered to the Tenant, but the Tenant refused and opted to buy his own at a much higher cost than the ones in his unit. Although the Tenant denied this, I found the Landlord's testimony to be credible and unchallenged on cross-examination. I accept the Landlord's evidence and therefore find that, even if there were issues with the Tenant's fridge and stove, the Landlord acted reasonably in offering the Tenant another fridge and stove.

With respect to the leaky faucet and the pipes, the Tenant did not provide sufficient evidence to satisfy me that he informed the Landlord. The Landlord says that they routinely fix issues with leaky faucet and pipes in other rental units and there is no reason why they would not attend the Tenant's unit to fix a leaky faucet and pipe. The Tenant says he has text messages of him informing the Landlord about the issue. However, these text messages were not provided as part of the Tenant's disclosure. No reasons were given for failing to do so. In addition, the Tenant did not raise this issue at his T6 hearing on November 30, 2022. Accordingly, I am not satisfied that the Tenant had informed the Landlord of the leaky pipes and faucet. It would be unfair to hold the Landlord responsible for something that they were likely not aware of. It appears the Tenant took it upon himself to do the repairs.

10. Accordingly, the Tenant's claim for costs related to the fridge, stove, faucet and leaky pipes is denied.
11. I have considered all of the disclosed circumstances in accordance with subsection 83 of the *Residential Tenancies Act, 2006* (RTA), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenant, 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.
12. The Tenant has substantially paid his rent since the application was filed. The arrears are relatively the same at the time the application was filed. It appears the Tenant withheld his rent because of the Tenant's issues. Nonetheless, I find it would not be unfair to postpone the eviction to allow the Tenant to void the order by paying the amounts below or to find alternative housing.
13. This order contains all of the reasons for the decision within it and no further reasons will be issued.

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:**
 - \$5,174.03 if the payment is made on or before May 31, 2023. See Schedule 1 for the calculation of the amount owing.

OR

- \$6,431.09 if the payment is made on or before June 30, 2023. See Schedule 1 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 June 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 Tenant does not pay the amount required to void this order the Tenant must move out of the rental unit on or before June 30, 2023**
 5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$4,330.27. 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 Tenant shall also pay the Landlord compensation of \$41.33 per day for the use of the unit starting May 11, 2023 until the date the Tenant moves out of the unit.
 7. If the Tenant does not pay the Landlord the full amount owing on or before May 29, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 30, 2023 at 6.00% annually on the balance outstanding.

8. 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.
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 July 1, 2023.

May 18, 2023

Date Issued

Khalid Akram

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 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.

*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	\$12,386.64
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$7,398.61
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	\$5,174.03

B. Amount the Tenant 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	\$13,643.70
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$7,398.61
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	\$6,431.09

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

Rent Owing To Hearing Date	\$11,542.88
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$7,398.61
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

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Total amount owing to the Landlord	\$4,330.27
Plus daily compensation owing for each day of occupation starting May 11, 2023	\$41.33 (per day)