



Order under Subsection 87(1) Residential Tenancies Act, 2006

Citation: Kenneth Brittain v David Andrew Rich, 2023 ONLTB 37464

Date: 2023-05-18

File Number: LTB-L-013777-23

In the matter of: 2, 747445 Township Road 4
Princeton ON N0J1V0

Between: Kenneth Brittain Landlord

And

David Andrew Rich and Josh Eden Tysoski Tenants

Kenneth Brittain (the 'Landlord') applied for an order requiring David Andrew Rich and Josh Eden Tysoski (the 'Tenants') to pay the rent that the Tenants owes.

This application was heard by videoconference on April 12, 2023 at 1:00 p.m.

The Landlord, represented by Lisa Barder, a licensed Paralegal, and Tenant, David Andrew Rich, representing himself and Josh Eden Tysoski, attended the hearing.

Determinations:

1. The Tenants did not pay the total rent they were required to pay for the period from February 1, 2021 to February 17, 2023.
2. The lawful rent is \$1,886.00. It is due on the 1st day of each rental period.
3. The Tenants has not made any payments since the application was filed.
4. The Tenant submitted that they left the unit because they “did not feel safe” and were “scared for their lives” however did not provide any documentation or collaborating testimony to support their submission.
5. The Tenants are no longer in possession of the rental unit. The tenancy was not lawfully terminated in accordance with a notice of termination, LTB order or agreement to terminate the tenancy. Therefore, the Tenants' obligation to pay rent ends on February 17, 2023, pursuant to section 88 of the Residential Tenancies Act, 2006 (the “Act”), which reads as follows:

“(1) If a tenant abandons or vacates a rental unit without giving notice of termination in accordance with this Act and no agreement to terminate has been made or the landlord has

not given notice to terminate the tenancy, a determination of the amount of arrears of rent owing by the tenant shall be made in accordance with the following rules:

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Tribunals Ontario
Landlord and Tenant Board

Tribunaux décisionnels Ontario
Commission de la location immobilière

1. *If the tenant vacated the rental unit after giving notice that was not in accordance with this Act, arrears of rent are owing for the period that ends on the earliest termination date that could have been specified in the notice, had the notice been given in accordance with section 47, 96 or 145, as the case may be.*
2. *If the tenant abandoned or vacated the rental unit without giving any notice, arrears of rent are owing for the period that ends on the earliest termination date that could have been specified in a notice of termination had the tenant, on the date that the landlord knew or ought to have known that the tenant had abandoned or vacated the rental unit, given notice of termination in accordance with section 47, 96 or 145, as the case may be.”*
6. The Landlord’s representative submitted that her office had sent the Tenants a Notice of Abandonment dated February 18, 2023. The Tenant did not dispute this submission. The Tenant did not dispute that he also still had keys to the unit and still had access to the unit.
7. I have thus determined that the Tenants abandoned the unit and the Landlords regained vacant possession on February 17, 2023
8. The rent arrears and daily compensation owing to February 17, 2023 are \$18,810.00
9. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.

It is ordered that:

1. The Tenants shall pay to the Landlord \$19,011.00. This amount includes rent arrears owing up to February 17, 2023 and the cost of the application.
2. If the Tenants does not pay the Landlord the full amount owing on or before June 1, 2023, the Tenants will start to owe interest. This will be simple interest calculated from June 2, 2023 at 6.00% annually on the balance outstanding.

June 1, 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.

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