



Order under Section 69 Residential Tenancies Act, 2006

Citation: Luc Lavictoirc/ v Sergey Losev, 2023 ONLTB 37120

Date: 2023-05-18

File Number: LTB-L-057928-22

In the matter of: 604 POTVIN AVE
ROCKLAND ON K4K1M4

Between: Julie Budd Landlord
Luc Lavictoirc

And

Sergey Losev Tenant Zhanna Losev

Julie Budd and Luc Lavictoirc/ (the 'Landlord') applied for an order to terminate the tenancy and evict Sergey Losev and Zhanna Losev (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on April 24, 2023.

Only the Landlords and the Landlords' representative J. Pierre attended the hearing.

As of 10am, the Tenants were not present or represented at the hearing although properly served with notice of this hearing by the LTB. As a result, the hearing proceeded with only the Landlords' evidence.

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 \$2,357.50. It is due on the 4th day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$77.51. This amount is calculated as follows: \$2,357.50 x 12, divided by 365 days.

5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to May 4, 2023 are \$23,230.00.
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. Section 83 requires that I consider all the circumstances, including the Tenants' and the Landlords' situations to determine if it would be appropriate to grant section 83 relief from eviction. The Landlords have tried to reach out to the Tenants for a repayment plan, without success. There are substantial arrears owing and the Tenants did not attend the hearing, and thus did not provide any evidence that may be relevant to my determination under s. 83. I have considered all of the disclosed circumstances in accordance with subsection 83 of the *Residential Tenancies Act, 2006* (RTA), including 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 Landlords and the Tenants is terminated unless the Tenants void this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlords or to the LTB in trust:**
 - \$25,773.50 if the payment is made on or before May 29, 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 May 29, 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 May 29, 2023**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlords \$22,608.50. 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 Landlords compensation of \$77.51 per day for the use of the unit starting until the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlords the full amount owing on or before May 29, 2023, the Tenants will start to owe interest. This will be simple interest calculated from May 30, 2023 at 6.00% annually on the balance outstanding.

8. The Landlords 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 May 29, 2023, then starting May 30, 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 Landlords on or after May 30, 2023.

May 18, 2023

Date Issued

Peter Nicholson

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 29, 2023

Rent Owing To June 4, 2023	\$25,587.50
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
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	\$25,773.50

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

Rent Owing To Hearing Date	\$22,422.50
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
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	\$22,608.50
Plus daily compensation owing for each day of occupation starting	\$77.51 (per day)