



**Order under Section 69
Residential Tenancies Act, 2006**

Citation: Morguard NAR Canada Limited Partnership v Laura Ivany, 2023 ONLTB 36649

Date: 2023-05-12

File Number: LTB-L-034489-22

In the matter of: 2814, 2869 BATTLEFORD RD
MISSISSAUGA ON L5N2S6

Between: Morguard NAR Canada Limited Partnership Landlord

And

Laura Ivany Tenant

Morguard NAR Canada Limited Partnership (the 'Landlord') applied for an order to terminate the tenancy and evict Laura Ivany (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on April 11, 2023.

The Landlord's Legal Representative, M. Zarnett and the Tenant 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. There was a preliminary issue regarding the service of a notice of rent increase. The Tenant disputed receiving the notice.
4. A. Gonsalves testified on behalf of the Landlord and was assisted by M. Murcia who provided translation from English to Spanish and from Spanish to English. Ms. Gonsalves testified that she is employed by the Landlord as a cleaner. Ms. Gonsalves testified that on March 1, 2022, she served the notice of rent increase to the Tenant's unit. She testified that the notice was in an envelope, and she attempted to slide it under the door and was unable to, however she managed to slide it all the way into the unit by pushing it through the side of the door. She testified that nothing obstructed the envelope containing the notice from being pushed through the side of the door and into the rental unit.
5. The Tenant testified that she did not receive the notice of increase and that she had stripping along the door, and she doesn't think anything would fit through the side of the door.

6. Based on the evidence before me, I am satisfied that the Tenant was properly served with the notice of increase. I accept the testimony of the Landlord's witness that she served the notice of increase on March 1, 2022 by sliding it through the side of the door.
7. The lawful rent is \$1,784.62. It is due on the 1st day of each month.
8. Based on the Monthly rent, the daily rent/compensation is \$58.67. This amount is calculated as follows: \$1,784.62 x 12, divided by 365 days.
9. The Tenant has paid \$8,914.15 to the Landlord since the application was filed.
10. The rent arrears owing to April 30, 2023 are \$9,888.95.
11. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
12. The Landlord collected a rent deposit of \$1,933.11 from the Tenant 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.
13. Interest on the rent deposit, in the amount of \$18.92 is owing to the Tenant for the period from January 1, 2022 to April 11, 2023.

Relief from eviction

14. The Tenant testified that she has reached out for assistance from a social service agency that assists tenants with rental arrears and the only thing that is holding up payment is the dispute regarding the service of the notice of increase. She testified that as soon as she has an order, the agency has advised her that they can pay the amount owing on her behalf.
15. The Landlord is requesting a standard order given the information from the Tenant that the agency will pay off the arrears once the order is issued.
16. I find it is appropriate to give a small delay to ensure the Tenant has enough time to coordinate payment between the social service agency and the Landlord.
17. 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 May 31, 2023 pursuant to subsection 83(1)(b) of the Act.

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:
 - \$11,859.57 if the payment is made on or before May 31, 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 May 31, 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 May 31, 2023
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$6,983.67. 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 Tenant. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$58.67 per day for the use of the unit starting April 12, 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 23, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 24, 2023 at 6.00% annually on the balance outstanding.
8. The Landlord or the Tenant 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 31, 2023, then starting June 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 June 1, 2023.

May 12, 2023

Date Issued

Emily Robb

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 December 1, 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.

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	\$20,587.72
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$8,914.15
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	\$11,859.57

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

Rent Owing To Hearing Date	\$17,663.85
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$8,914.15
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	- \$1,933.11
Less the amount of the interest on the last month's rent deposit	- \$18.92
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	\$6,983.67
Plus daily compensation owing for each day of occupation starting April 12, 2023	\$58.67 (per day)