



Order under Section 69 Residential Tenancies Act, 2006

Citation: Rose and Douglas Inc. v Jeff McKnight, 2023 ONLTB 35949

Date: 2023-05-11

File Number: LTB-L-005698-23

In the matter of: 9, 730 Rose Avenue
North Bay On P1B6W4

Between: Rose and Douglas Inc. Landlord

And

Jeff McKnight Tenant

Rose and Douglas Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Jeff McKnight (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

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

The Landlord's Agent, Marianne Kelly, and the Tenant attended the hearing.

The Tenant spoke with Duty Counsel prior to 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 \$1,059.36. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$34.83. This amount is calculated as follows: \$1,059.36 x 12, divided by 365 days.
5. The Tenant has paid \$2,118.72 to the Landlord since the application was filed.

6. The rent arrears owing to April 30, 2023 are \$4,185.76.
7. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.

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8. The Landlord collected a rent deposit of \$475.00 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.
9. Interest on the rent deposit, in the amount of \$53.03 is owing to the Tenant for the period from April 1, 2016 to April 24, 2023.
10. The Landlord is seeking a standard 11-day voidable order; they are not convinced the Tenant would abide by a payment plan.
11. The Tenant does not dispute the amount owing; he has been off most of this year but is back to work soon. His mother will help him with the payment plan until he is back on his feet, he did not ask her before because he was embarrassed but realizes to save the tenancy, he needs her help.
12. I have considered all 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 grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act. This is a fairly long-term tenancy, the Tenant deserves a chance to preserve it; I consider the 9-month repayment plan he is offering to be reasonable and with the breach clause any prejudice to the Landlord is lessened.

It is ordered that:

1. The Tenant shall pay to the Landlord \$4,386.76, which represents the arrears of rent (\$4,185.76) owing to April 30, 2023, and costs (\$201.00) to the Landlord to file the application with the Board.
2. The Landlord's application for eviction of the Tenant is denied on the condition that payment is made in accordance with:
 - (a) The Tenant shall pay to the Landlord \$500.00 per month from June 1, 2023 through January 1, 2024 towards the arrears.
 - (b) The Tenant shall pay to the Landlord the final arrears payment in the amount of \$386.76 on or before February 1, 2024.
3. **The Tenant shall also pay the Landlord the lawful rent for the months of May 1, 2023 to February 1, 2024 in full, and on time.**

4. If the Tenant fails to make any of the payments in accordance with paragraph 2, and by the dates required, then:

- (a) The Landlord may apply under section 78 of the Residential Tenancies Act, 2006 (the 'Act') for an order terminating the tenancy and evicting the Tenant, and for the payment of any new arrears of rent and NSF charges not already ordered under

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paragraph 1 of this order. The Landlord must make the application within 30 days of a breach of a condition set out in paragraph 2 of this order.

- (b) The balance owing under paragraph 1 of this order shall become payable on the day following the date of default. The monies owing shall bear interest at the postjudgment interest rate determined under subsection 207(7) of the Act.

May 11, 2023

Date Issued

Diane Wade

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.