



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

Citation: SAGER v SGROMO, 2023 ONLTB 36297

Date: 2023-05-10

File Number: LTB-L-081436-22
(formerly File # NOL-42978-21)

2023 ONLTB 36297 (CanLII)

In the matter of: 3, 113 MARKS STREET S
THUNDER BAY ON P7E1L8

Between: ANNE SAGER Landlord

And

PIETRO SGROMO Tenant

Your file has been moved to the Landlord and Tenant Board’s new case management system, the Tribunals Ontario Portal. Your new file number is LTB-T-0811436-22

ANNE SAGER (the 'Landlord') applied for an order to terminate the tenancy and evict PIETRO SGROMO (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on December 14, 2021 at 1:00 p.m.

The Landlord, represented by David Sager, her spouse, and the Tenant, self-represented, attended the hearing. The Tenant spoke to tenant 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 \$800.00. It is due on the 1st day of each month.

4. Based on the Monthly rent, the daily rent/compensation is \$26.30. This amount is calculated as follows: \$800.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The Landlord and Tenant agree that rental arrears owing to December 31, 2021 are \$7,200.00.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$800.00 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. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. At the hearing the Tenant did not present any submissions or evidence in support of granting relief nor were any circumstances disclosed that would warrant relief from eviction.

Tenant's Section 82 Issues

10. The Tenant raised the following issues under section 82 of the Act, having previously disclosed the issues and supporting evidence in accordance with the Board's rules:
 - a) The Tenant alleges that due to traffic of various outside people in the building, including the storage lockers in the basement, the Tenant's personal belongings were stolen. The Tenant alleges that the theft was by the "Tenant Agent" – Mr. Dwyer.
 - b) The Tenant alleges that the Landlord illegally entered his rental unit on April 10th or April 17, 2021 with 2 Police Officers under the guise of the entry being a wellness check. As a result of this entry his mental health has suffered due to the trauma he suffered. The Tenant stated that he is survivor of a serial killer Bruce MacArthur and the presence of Police cause him anxiety.
 - c) The Tenant alleges that he is being harassed by the "Tenant Agent" as follows:
 - The Tenant Agent has violently knocked on his door
 - The Tenant Agent has made disparaging remarks to him
 - d) The Landlord has interfered with his reasonable enjoyment of the premises by blocking the stairwell, blocking the back entrance, leaving broken glass around the laundry entrance and throwing his shelves in the fire pit.

11. The Tenant submitted that several emails/text messages and pictures detailing his conversations with the Tenant Agent and his concerns.
12. The Tenant submitted several medical letters stating that he had Post Traumatic Stress Disorder. He also submitted that he had mental health issues due to past incidences in his life

Landlord's evidence

13. The Landlord testified that he attended to the Tenant's unit on either April 10 or April 17, 2021, because he was receiving complaints from other tenants. He was aware of the Tenant's issues and when he went to the site noted that the door frame was broken. He knocked on the door, identified himself, however, did not receive a response. He then contacted the Police out of concern for the Tenant, and to have the Police conduct a wellness check. Police instructed him to open the rental unit door which he did, and the Police confirmed that the Tenant was not in any danger or unwell.
14. The Landlord testified that the "Tenant Agent" was another tenant who on occasion performed maintenance around the building such as cutting the grass and or minor repairs but was not authorized to perform any other duties

Analysis

15. Section 20 (1) of the *Residential Tenancies Act, 2006* (the "Act") states the following;
 - A landlord is responsible for providing and maintaining a residential complex, including the rental units in it, in a good state of repair and fit for habitation and for complying with health, safety, housing and maintenance standards.
16. Section 22 of the Act states that
 - A landlord shall not at any time during a tenant's occupancy of a rental unit and before the day on which an order evicting the tenant is executed substantially interfere with the reasonable enjoyment of the rental unit or the residential complex in which it is located for all usual purposes by a tenant or members of his or her household.
17. Regarding the loss of personal possessions in the storage room. The Tenant did not provide any further evidence, such as a Police report, that would support and or confirm his allegation that his personal possessions were stolen and that Mr. Dwyer and or the Landlord were responsible for the loss.

18. Regarding the entry into the rental unit by the Police, I am satisfied that Landlord was genuinely concerned about the Tenant's health and that the Landlord was following the direction of the Police when he opened the rental unit door and allowed the Police to enter.
19. With respect to the "Tenant Agent", although the Tenant presented emails detailing conversations with Mr. Dwyer, I do not find that Mr. Dwyer can be considered an agent of the Landlord with respect to his interactions with the Tenant. The Landlord has described what may be construed as a causal work relationship and that this person did not in essence represent the Landlord. As this person was not summoned to the hearing to either confirm, deny and or give context to the submissions I am not persuaded that any of the actions of this person can be the responsibility of the Landlord, as agent. Alternatively, if Mr. Dwyer engaged in harassing conduct in his capacity as a tenant of the rental unit, there is no evidence before me that the Tenant made the Landlord aware of the concerns in a timely fashion so as to allow the Landlord to respond.
20. As the applicant, the Tenant bears the burden of proving their application. Here, the Tenant needed to persuade me that their version of events was the more probable, i.e. more than 50%. I must weigh up the submissions and evidence of the parties and decide which version is most probably true. Having done so, I find the Tenant has not met the required standard in establishing that the Landlord and/or his agents have not entered the rental unit illegally, made disparaging remarks and or harassed the Tenant, and or not provided and or maintained the rental unit in a state of good repair or failed to comply with health, safety, housing and maintenance standards.
21. For the reasons noted above I am dismissing the Tenant's section 82 claims.

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:**
 - \$20,986.00 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 \$6,138.90. 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 Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
7. 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.
8. 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 17, 2023

Date Issued

Peter Pavlovic

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 22, 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	\$20,800.00
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	\$20,986.00

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

Rent Owing To Hearing Date	\$6,752.90
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	- \$800.00
Less the amount of the interest on the last month's rent deposit	- \$0.00
Total amount owing to the Landlord	\$6,138.90
Plus daily compensation owing for each day of occupation starting December 15, 2021	\$26.30 (per day)