



Order under Section 69 Residential Tenancies Act, 2006

Citation: Calverley v Susan Rapkoski, 2023 ONLTB 35555

Date: 2023-05-10

File Number: LTB-L-054695-22

In the matter of: Unit 1, 37 FRANKDALE AVE EAST
YORK ON M4J3Z8

Between: Royce Harold Calverley Landlords
and Cindy Petersen

And

Susan Rapkoski Tenant

Royce Harold Calverley and Cindy Petersen (the 'Landlords') applied for an order to terminate the tenancy and evict Susan Rapkoski (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, R. Calverley, and the Tenant attended the hearing.

Determinations:

1. The Landlords served the Tenant with a valid Notice to End Tenancy Early for Nonpayment 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 \$1,026.46. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$33.75. This amount is calculated as follows: \$1,026.46 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 April 30, 2023 are \$10,264.60.
7. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlords collected a rent deposit of \$925.00 from the Tenant and this deposit is still being held by the Landlords. 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 \$71.15 is owing to the Tenant for the period from January 1, 2018 to April 11, 2023.
10. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and whether the Landlords attempted to negotiate a repayment agreement with the Tenant, and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
11. Pursuant to section 83(6), I am required to consider whether the Landlord made attempts to negotiate a repayment agreement with the Tenant. The Landlord testified that he attempted to negotiate with the Tenant in September 2022 and again before the hearing. However, the parties could not reach an agreement. I am satisfied that the Landlord attempted to negotiate a payment agreement with the Tenant.
12. With respect to section 83(2), the Landlord testified that the tenancy cannot continue. The Landlord states that the rent arrears are substantial, and he relies on the rental income as a senior.
13. The Tenant testified that she has been a Tenant for eight years. The reason the Tenant did not pay rent was because Landlord served her with an N13 Notice. After receiving this, she lived elsewhere temporarily and paid rent there. She presented a payment plan of \$250.00 a month to pay off the outstanding arrears. The Tenant states she may be able to get funds from housing stabilization in the amount of \$5,000.00.
14. In consideration of the foregoing, I find that it would not be unfair to postpone termination of the tenancy. It would be unfair to impose the Tenant's proposed payment plan on the Landlord as it would take 33 months to pay off the outstanding arrears. Further, the amount from housing stabilization has not been guaranteed. However, in consideration of the length of tenancy and the reason the Tenant had not been able to pay rent, I find it would not be unfair to postpone termination of the tenancy. This will provide the Tenant some time to organize her move.

It is ordered that:

1. The tenancy between the Landlords 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 Landlords or to the LTB in trust:**
 - \$11,477.06 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 Landlords \$8,799.24. 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 Landlords 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 Landlords compensation of \$33.75 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 Landlords the full amount owing on or before May 21, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 22, 2023 at 6.00% annually on the balance outstanding.
8. The Landlords 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 Landlords 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 June 1, 2023.

May 10, 2023

Date Issued

Camille Tancioco

Member, Landlords 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.

*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 31, 2023

Rent Owing To May 31, 2023	\$11,291.06
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlords 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 Landlords 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	\$11,477.06

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

Rent Owing To Hearing Date	\$9,609.39
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlords 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	- \$925.00
Less the amount of the interest on the last month's rent deposit	- \$71.15
Less the amount the Landlords 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 Landlords	\$8,799.24
Plus daily compensation owing for each day of occupation starting April 12, 2023	\$33.75 (per day)