



Order under Section 69
Residential Tenancies Act, 2006

Citation: Donald Peter Johnson v Carole Gooding, 2023 ONLTB 33335

Date: 2023-05-04

File Number: LTB-L-080738-22

In the matter of: 248 OTTAWA ST N
KITCHENER ON N2H3L1

Between: Donald Peter Johnson and Janice Johnson Landlords

And

Carole Gooding and Chris Johnston Tenants

Donald Peter Johnson and Janice Johnson (the 'Landlords') applied for an order to terminate the tenancy and evict Carole Gooding and Chris Johnston (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on April 12, 2023.

Only the Landlords attended the hearing.

As of 3:55 p.m., the Tenants were not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlords' evidence.

Determinations:

1. The Landlords served the Tenants with a valid Notice to End Tenancy Early for Nonpayment of Rent (N4 Notice). The Tenants 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 Tenants were still in possession of the rental unit.
3. The lawful rent is \$1,800.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$59.18. This amount is calculated as follows: \$1,800.00 x 12, divided by 365 days.
5. The Tenants have paid \$4,550.00 to the Landlords since the application was filed.
6. The rent arrears owing to April 30, 2023 are \$5,950.00.

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 \$1,800.00 from the Tenants 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 \$85.12 is owing to the Tenants for the period from October 1, 2019 to April 12, 2023.
10. Donald Johnson ('DJ') stated that the Landlords have reached out to the Tenants on many occasions to try to arrange a payment plan for the Tenants to pay their rent arrears, without success. The most recent such attempt was in December 2022, and the Tenants did not respond to this request. DJ stated that the Landlords even lowered the rent at one time to help the Tenants through a difficult time.
11. In terms of any circumstances of the Tenants that should be considered with respect to whether eviction should be delayed or denied, DJ stated that the Tenant, Chris Johnston, has told DJ he has difficulty working, as does the other Tenant, Carole Gooding, who DJ understands to be receiving some form of social assistance. DJ did not know for a fact that these things are true, it is just what he has been told.
12. 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 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:
 - \$7,936.00 if the payment is made on or before May 15, 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 15, 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 15, 2023
5. If the Tenants do not void the order, the Tenants shall pay to the Landlords \$3,161.04. 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 Tenants. See Schedule 1 for the calculation of the amount owing.

6. The Tenants shall also pay the Landlords compensation of \$59.18 per day for the use of the unit starting April 13, 2023 until the date the Tenants moves out of the unit.
7. If the Tenants do not pay the Landlords the full amount owing on or before May 15, 2023, the Tenants will start to owe interest. This will be simple interest calculated from May 16, 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 15, 2023, then starting May 16, 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 May 16, 2023.

May 4, 2023

Date Issued

Mark Melchers

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 16, 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 Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before May 15, 2023

Rent Owing To May 31, 2023	\$12,300.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlords since the application was filed	- \$4,550.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlords owes the Tenants for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$7,936.00

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

Rent Owing To Hearing Date	\$9,410.16
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlords since the application was filed	- \$4,550.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$1,800.00
Less the amount of the interest on the last month's rent deposit	- \$85.12
Less the amount the Landlords owes the Tenants for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$0.00
Total amount owing to the Landlords	\$3,161.04
Plus daily compensation owing for each day of occupation starting April 13, 2023	\$59.18 (per day)