



Order under Section 69 Residential Tenancies Act, 2006

Citation: Waterloo Region Housing v Wilson Kong, 2023 ONLTB 34374

Date: 2023-05-03

File Number: LTB-L-057165-22

In the matter of: 221 KINZIE AVE
KITCHENER ON N2A2K2

Between: Waterloo Region Housing Landlord

And

Wilson Kong Tenant

Waterloo Region Housing (the 'Landlord') applied for an order to terminate the tenancy and evict Wilson Kong (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

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

Only the Landlord, represented by Dana Christiaen, attended the hearing. As of 11:27am, the Tenant was 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 Landlord's evidence.

The application is amended to remove the rental unit number of 211 from the application.

The Landlord indicated that there is no unit number for this rental unit and that it is a glitch in the Landlord's rental software program. The Landlord further indicated that the Tenant and Landlord spoke on Friday before the hearing and the Tenant acknowledged receipt of the hearing notice and had indicated to the Landlord that they were aware of the hearing. The Landlord ensured that the Tenant had instructions on how to participate in the hearing.

Determinations:

1. The Landlord served the Tenant with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice) by mail on March 10, 2022. The notice is therefore effectively served on March 15, 2022.
2. 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. The Termination date in the N4 Notice is April 21, 2022.
3. As of the hearing date, the Tenant was still in possession of the rental unit.
4. The lawful rent as of March 1, 2023 is \$1,170.00. It is due on the 1st day of each month.

5. Based on the Monthly rent, the daily rent/compensation is \$38.47. This amount is calculated as follows: \$1,170.00 x 12, divided by 365 days.
6. The Tenant has paid \$2,100.00 to the Landlord since the application was filed.
7. The rent arrears owing to April 30, 2023 are \$13,674.00.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. There is no last month's rent deposit.
10. The Tenant did not attend the hearing to make submissions regarding their unique circumstances to consider any relief.
11. The Landlord indicated that the Tenant has lived in the rental unit since February 14, 2015.
12. The Landlord further indicated that they had reached out to the Tenant's OW worker and the Tenant is not receiving their monthly amount because they have failed to submit their documentation to OW. The Tenant has not communicated any intent of making any payment arrangements with the Landlord and the arrears continue to grow with minimal payment from the Tenant.
13. Recognizing that this rental unit is provided by the Region as a social housing unit and based on the length of the tenancy, I find it appropriate under the circumstances to delay the enforcement of this order. The Landlord was not opposed to the extension.
14. 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:**
 - \$15,030.00 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 \$13,613.28. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.

6. The Tenant shall also pay the Landlord compensation of \$38.47 per day for the use of the unit starting April 25, 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 14, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 15, 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 3, 2023
Date Issued

Terri van Huisstede
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.

*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	\$16,944.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$2,100.00
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	\$15,030.00

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

Rent Owing To Hearing Date	\$15,527.28
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$2,100.00
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	- \$
Less the amount of the interest on the last month's rent deposit	- \$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 amount owing to the Landlord	\$13,613.28
Plus daily compensation owing for each day of occupation starting April 25, 2023	\$38.47 (per day)