



Order under Section 69 Residential Tenancies Act, 2006

Citation: Wenceslas Ndahimana v Moore Jessica, 2023 ONLTB 34186

Date: 2023-05-03

File Number: LTB-L-035227-22

In the matter of: Main & Upper Floor, 68 BURKWOOD CRES
Scarborough ON M1B1P1

Between: Wenceslas Ndahimana Landlord

And

Moore Jessica Tenants Ryan Jackson

Wenceslas Ndahimana (the 'Landlord') applied for an order to terminate the tenancy and evict Moore Jessica and Ryan Jackson (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

The Landlord also claimed charges related to NSF cheques.

This application was heard by videoconference on April 13, 2023.

The Landlord and the Tenants attended the hearing.

Determinations:

1. The Landlord 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 \$2,500.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$82.19. This amount is calculated as follows: \$2,500.00 x 12, divided by 365 days.

5. The Tenants has not made any payments since the application was filed.
6. The rent arrears owing to April 30, 2023 are \$27,500.00.
7. The Landlord is entitled to \$7.00 to reimburse the Landlord for administration charges and \$13.00 for bank fees the Landlord incurred as a result of 1 cheque given by or on behalf of the Tenant which was returned NSF.
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.

Section 83

10. I have considered all of the disclosed circumstances in accordance with subsection 83 of the *Residential Tenancies Act, 2006* (RTA), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenants, 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.
11. While I accept the arrears have placed significant financial burden on the Landlord, the Tenants explanation for the arrears and their proposed remedy is reasonable in the circumstances.
12. The Tenants explained that their child passed away in June 2022 and Landlord cast blame on the Tenants for the death of their child at a time of great grief. As a result, the Tenants say they stopped paying rent and felt they were owed an apology. The Tenants also explained that they were off work for 5 months due to the grief, they incurred funeral costs and other expenses. They say they are now back where they need to be in terms of their finances. The Tenants proposed a payment plan that would have the arrears paid in approximately 14 months.
13. While certainly not advisable, the Tenants explanation for withholding their rent is understandable. I was also satisfied the Tenants' proposal was reasonable given their evidence on their finances. Given the remedial nature of the RTA, I find it appropriate to grant the Tenants relief in all the circumstances.

It is ordered that:

1. The Tenants shall pay to the Landlord \$27,706.00, which represents the arrears of rent (\$27,500.00), NSF charges (\$20.00) and costs (\$186.00) outstanding for the period ending April 30, 2023.
2. The Landlord's application for eviction of the Tenants is denied on the condition that:

(a) The Tenants shall make the following payments to the Landlord in respect of the monies owing under paragraph 1 of this order:

Date Payment Due	Amount of Payment
May 1, 2023	\$1,000.00 (costs and arrears)
May 20, 2023	\$1,000.00 (arrears)
June 1, 2023	\$1,000.00 (arrears)
June 20, 2023	\$1,000.00
	(arrears)
July 1, 2023	\$1,000.00 (arrears)
July 20, 2023	\$1,000.00 (arrears)
August 1, 2023	\$1,000.00 (arrears)
August 20, 2023	\$1,000.00 (arrears)
September 1, 2023	\$1,000.00 (arrears)
September 20, 2023	\$1,000.00 (arrears)
October 1, 2023	\$1,000.00 (arrears)
October 20, 2023	\$1,000.00 (arrears)
November 1, 2023	\$1,000.00 (arrears)
November 20, 2023	\$1,000.00 (arrears)
December 1, 2023	\$1,000.00 (arrears)
December 20, 2023	\$1,000.00 (arrears)
January 1, 2024	\$1,000.00 (arrears)
January 20, 2024	\$1,000.00 (arrears)
February 1, 2024	\$1,000.00 (arrears)

February 20, 2024	\$1,000.00 (arrears)
March 1, 2024	\$1,000.00 (arrears)
March 20, 2024	\$1,000.00 (arrears)
April 1, 2024	\$1,000.00 (arrears)
April 20, 2024	\$1,000.00 (arrears)
May 1, 2024	\$1,000.00 (arrears)
May 20, 2024	\$1,000.00 (arrears)
June 1, 2024	\$1,000.00 (arrears)
June 20, 2024	\$706.00 (arrears)

- (b) The Tenants shall also pay the Landlord the rent for the months of May 2023 up to and including June 2024 in full, on or before the first day of each corresponding month.
3. If the Tenants fail 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 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 3, 2023
Date Issued

 Khalid Akram
 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 15, 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.