



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

Citation: Natalia Goldshtein v Tina Sheppard, 2023 ONLTB 34337

Date: 2023-05-02

File Number: LTB-L-057453-22

In the matter of: 1, 197 KING ST
SUDBURY ON P3C2V9

Between: Evgeni Goldshtein Landlords
Natalia Goldshtein

And

Tina Sheppard Tenant

Evgeni Goldshtein and Natalia Goldshtein (the 'Landlords') applied for an order to terminate the tenancy and evict Tina Sheppard (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

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

The Landlords' Representative, E Apetkar, the Landlord, Natalia Goldshtein, and the Tenant attended the hearing.

Preliminary Issues: Should the hearing be adjourned?

No. I find it was not unfair to proceed because the Tenant had adequate time to prepare, and she ought to know case required to be met as the Landlords' application is based on non-payment of rent. The Tenant stated she wanted to speak to Tenant Duty Counsel who did not join the video conference. The Tenant received the Notice and there was contact information on the Notice for the legal clinic, but she chose not to exercise that option before the hearing.

The Tenant also stated she thought the Landlords' application was based on N12 Notice of termination. As part of the Board's processes, the Notice of Hearing is accompanied by a copy of the application and Notice of termination. There's no N12 Notice associated with this application; therefore, the Tenant would have received the N4 Notice along with the Landlords' L1 application. Although the Tenant stated she didn't receive the N4 Notice, weight was given to the Landlord's testimony who stated the N4 Notice was given to the Tenant by placing it under the door as supported by the signed Certificate of Service verifying the date and method of service. Having followed due legal process, I also find it unlikely that the Landlord would fail to serve the N4 Notice to the Tenant before filing the L1 application.

Determinations:

1. The Landlords 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 \$1,500.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$49.32. This amount is calculated as follows: \$1,500.00 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 \$18,335.56.
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 \$1,500.00 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 \$40.07 is owing to the Tenant for the period from March 31, 2022 to April 24, 2023.
10. 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. The Tenant's child has brain tumor who requires care and added expenses. The tenancy started in March 2022 and since then the Tenant has made two payments towards rent. The Tenant's payment history is very poor and it would be unfair to the Landlords to postpone eviction given they haven't received any payments for 10 months.

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:**
 - \$20,021.56 if the payment is made on or before May 13, 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 13, 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 13, 2023**

5. If the Tenant does not void the order, the Tenant shall pay to the Landlords \$16,665.17. 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 \$49.32 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 Landlords the full amount owing on or before May 13, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 14, 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 13, 2023, then starting May 14, 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 14, 2023.

May 2, 2023
Date Issued

Sandra Macchione
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 November 14, 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 13, 2023

Rent Owing To May 31, 2023	\$19,835.56
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	\$20,021.56

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

Rent Owing To Hearing Date	\$18,019.24
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	- \$1,500.00
Less the amount of the interest on the last month's rent deposit	- \$40.07
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	\$16,665.17
Plus daily compensation owing for each day of occupation starting April 25, 2023	\$49.32 (per day)

