



Order under Section 69 Residential Tenancies Act, 2006

Citation: Babaei v Kusema, 2023 ONLTB 34164

Date: 2023-05-02

File Number: LTB-L-050633-22

In the matter of: LOWER UNIT, 223 HARDING BLVD RICHMOND
HILL ON L4C8X4

Between: Marziyeh Firouzi and Zekrali Babaei Landlords

And

Ronald Kudakwas Kusema Tenant

Marziyeh Firouzi and Zekrali Babaei (the 'Landlords') applied for an order to terminate the tenancy and evict Ronald Kudakwas Kusema (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on March 27, 2023.

The Landlord Z Babaei, the Landlord's representative A Golabgir and the Tenant attended the hearing.

Determinations:

1. The Landlord 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 \$1,100.00. It is due on the 8th day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$36.16. This amount is calculated as follows: \$1,100.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The Landlord's evidence is that the rent arrears owing to April 7, 2023 are \$15,400.00. The rental arrears when the application was filed on September 2, 2022 were \$6,600.00. The

Landlord submitted a completed update sheet, including rent arrears from September 8, 2022 to April 7, 2023, the 8 months rent arrears are \$8,800.00. There have been no payments from the Tenant.

7. The Tenant testified that he disputes the amount of rent arrears. However, the Tenant did not provide any evidence or submissions to support his assertion. Therefore, I accept the Landlord's evidence respecting the arrears owing.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlord collected a rent deposit of \$1,100.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
10. Interest on the rent deposit, in the amount of \$37.76 is owing to the Tenant for the period from May 6, 2021 to March 27, 2023.

Relief from Eviction

11. 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.
12. The Tenant requested an extended termination date of April 30, 2023 to allow time to secure alternative housing.
13. As this order is being issued after April 30, 2023, no further delay is warranted.

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:**
 - \$16,686.00 if the payment is made on or before May 7, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 - \$17,786.00 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 Landlord \$14,071.44. 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 Landlord 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 Landlord compensation of \$36.16 per day for the use of the unit starting March 28, 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 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 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 13, 2023, then starting May 14, 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 May 14, 2023.

May 2, 2023

Date Issued

Heather Kenny

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 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 7, 2023

Rent Owing To May 7, 2023	\$16,500.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00

Less the amount the Tenant paid to the Landlord 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 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	\$16,686.00

B. 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 June 7, 2023	\$17,600.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord 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 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	\$17,786.00

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

Rent Owing To Hearing Date	\$15,023.20
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord 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	- \$1,100.00
Less the amount of the interest on the last month's rent deposit	- \$37.76
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	\$14,071.44
Plus daily compensation owing for each day of occupation starting March 28, 2023	\$36.16 (per day)