



Order under Section 69
Residential Tenancies Act, 2006

Citation: Domus Foundation v Jacob, 2023 ONLTB 32556

Date: 2023-05-01

File Number: LTB-L-056202-22

In the matter of: 70, 551 COMMERCIAL STREET MILTON
ONTARIO L9T4R9

Between: Domus Foundation Landlord

And

Chris Jacob Tenant

Domus Foundation (the 'Landlord') applied for an order to terminate the tenancy and evict Chris Jacob (the 'Tenant') because the Tenant has been persistently late in paying the Tenant's rent.

This application was heard by videoconference on April 4, 2023.

Only the Landlord's legal representative, Dale Skvereckas ('DS'), and the Landlord's agent Bonnie Gloyn, attended the hearing.

As of 9:33 a.m., 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.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy, however, I find that it would not be unfair in all the circumstances to grant relief from eviction.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On February 14, 2022, the Landlord gave the Tenant an N8 notice of termination. The notice of termination alleges that the Tenant paid the rent late for each month from December 2020 to January 2022 inclusive, with the exception of March 2021. It also alleges that as of February 14, 2021, the rent for February 2021 had not yet been paid.

4. I find that the Landlord proved the allegations in the notice of termination. DS provided oral evidence of this, and the Landlord filed a document listing all the relevant payment dates to support the accuracy of these allegations. The Tenant has persistently failed to pay the rent on the date it was due. The rent is due on the first day of each month and this is a month to month tenancy. The rent was paid late 14 times in the 15 months preceding service of the notice of termination.

File Number: LTB-L-056202-22

5. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.

Section 83 Considerations

6. The Landlord established that after service of the N8 notice of termination, the Tenant paid the rent late each month between March 2022 and March 2023 inclusive. As of the date of this hearing, the rent for April 2023 had not yet been paid.
7. The Landlord served the Tenant with 12 N4 notices of termination for non-payment of rent during the period covered by the N8 notice of termination, and an additional 10 after service of the notice. No application to end the tenancy based on these N4 notices was filed with the Board, because the notices were being voided by the Tenant's late payments.
8. The Landlord's evidence was that the Landlord primarily provides subsidized rental housing, and it relies on rent revenue to conduct repairs and maintenance and for the Landlord's operations. The Tenant's persistent late payment of the rent has a substantial impact on the Landlord, including the excessive administrative work required with respect to the notices of termination that have been issued.
9. The Landlord seeks an order terminating the tenancy.
10. This is the first N8 notice of termination the Tenant has been given by the Landlord. The Tenancy commenced in August 2012.
11. While I recognize the impact the Tenant's late payments have had on the Landlord, and the Tenant was not present at the hearing to provide evidence or submissions, I find that it is not unfair in all the circumstances to grant relief from eviction. The tenancy has been in place for over 10 years, and this is the first N8 notice the Tenant has been given. The Tenant will be given an opportunity to begin paying his rent on time. Any prejudice to the Landlord can be attenuated by the requirement for the Tenant to pay his rent on time being subject to section 78 of the Residential Tenancies Act, 2006 (the 'Act').
12. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act, 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. It is ordered that:

1. The tenancy between the Landlord and the Tenant continues if the Tenant meets the conditions set out below.
2. The Tenant shall pay the full monthly rent on or before the first day of each month beginning on June 1, 2023 for a period of 12 months, up to and including May 2024.
3. The Tenant shall pay the rent for April 2023 and May 2023 on or before May 15, 2023 if he has not already done so.
4. If the Tenant fails to make any one of the payments in accordance with paragraph 2 or 3 of this order, the Landlord may, without notice to the Tenant, apply to the LTB within 30 days

File Number: LTB-L-056202-22

of the Tenant's breach pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenant.

5. The Tenant shall pay to the Landlord \$201.00 for the cost of filing the application.
6. If the Tenant does not pay the Landlord the full amount owing in paragraph 5 on or before May 12, 2023, the Tenant will start to owe interest. This will be simple interest, calculated from May 13, 2023 at 6.00% annually on the balance outstanding.

May 1, 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.