



Order under Section 69 Residential Tenancies Act, 2006

Citation: Robertson v Carrington, 2023 ONLTB 33675

Date: 2023-04-27

File Number: LTB-L-053798-22

In the matter of: 20 KNAPTON AVE
AJAX ON L1S5V5

Between: Matthew Robertson and Paul Robertson Landlords

And

Jackie Baker and Steven Carrington Tenants

Matthew Robertson and Paul Robertson (the 'Landlords') applied for an order to terminate the tenancy and evict Jackie Baker and Steven Carrington (the 'Tenants') because the Tenants did not pay the rent that the Tenants owes.

This application was heard by videoconference on March 30, 2023. Both Landlords attended the hearing. As of 4:16 pm, the Tenants were 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.

Preliminary Issues:

1. The Board received a request from the Landlord by email on December 30, 2022 to amend the L1 application ("application") to add the Landlord's son Matthew Robertson to the application as he purchased the residential complex on December 1, 2022.
2. The application also did not reflect that the Landlords were holding a last month rent deposit in the amount of \$1,450.00 since June 1, 2012 and no interest has been paid to date on the last month rent deposit.
3. The application is amended to add Matthew Robertson as a Landlord and to reflect \$1,450.00 since June 1, 2012 and no interest has been paid to date on the last month rent deposit. I find there is no prejudice to the Tenants in granting these amendments to the application.

Determinations:

1. The Landlords served the Tenants with a valid Notice to End Tenancy Early for Non-payment 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 \$1,595.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$52.44. This amount is calculated as follows: \$1,595.00 x 12, divided by 365 days.
5. The Tenants have not made any payments since the application was filed.
6. The rent arrears owing to March 31, 2023 are \$15,950.00.
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 \$1,450.00 from the Tenants 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 \$253.29 is owing to the Tenant for the period from June 2, 2012 to March 30, 2023.
10. I find the Landlords attempted to negotiate a repayment of arrears with the Tenants without success. The Landlord stated since September 5, 2022, they attended the rental unit bi-weekly to inquire about repayment of the arrears. The Landlord stated that the Tenant Jackie Baker advised the Landlords in September 2022, December 2022 and during the week of the hearing that she is trying to find a new place to move to and will settle the arrears with the Landlords at a later date.
11. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
12. The Tenants did not attend the hearing to proffer any evidence in response to the application submitted by the Landlords. I find the arrears are significant and the Tenants have not made any payments since the application was filed.

It is ordered that:

1. The tenancy between the Landlords and the Tenants is terminated unless the Tenant voids this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$17,731.00 if the payment is made on or before April 30, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 - \$19,326.00 if the payment is made on or before May 8, 2023. See Schedule 1 for the calculation of the amount owing.

3. The Tenants may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenants have paid the full amount owing as ordered plus any additional rent that became due after May 8, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.
4. **If the Tenants do not pay the amount required to void this order the Tenant must move out of the rental unit on or before May 8, 2023**
5. If the Tenants do not void the order, the Tenant shall pay to the Landlords \$14,380.27. 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 owe on the rent deposit are deducted from the amount owing by the Tenants. See Schedule 1 for the calculation of the amount owing.
6. The Tenants shall also pay the Landlords compensation of \$52.44 per day for the use of the unit starting March 31, 2023 until the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlords the full amount owing on or before May 8, 2023, the Tenants will start to owe interest. This will be simple interest calculated from May 9, 2023 at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before May 8, 2023, then starting May 9, 2023, the Landlords may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
9. 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 9, 2023.

April 27, 2023

Date Issued

Kimberly Parish

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 9, 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 Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before April 30, 2023

Rent Owing To April 30, 2023	\$17,545.00
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Total the Tenants must pay to continue the tenancy	\$17,731.00

B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before May 8, 2023

Rent Owing To May 31, 2023	\$19,140.00
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Total the Tenant must pay to continue the tenancy	\$19,326.00

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

Rent Owing To Hearing Date	\$15,897.56
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$1,450.00
Less the amount of the interest on the last month's rent deposit	- \$253.29
Total amount owing to the Landlord	\$14,380.27
Plus daily compensation owing for each day of occupation starting March 31, 2023	\$52.44 (per day)