



Order under Section 21.2 of the
Statutory Powers Procedure Act and Section 69
Residential Tenancies Act, 2006

Citation: Sydorow v Kettle, 2023 ONLTB 33484
Date: 2023-04-27 File Number: LTB-
L-000428-21-RV

2023 ONLTB 33484 (CanLII)

In the matter of: 101, 3835 LAKE SHORE BLVD W
ETOBICOKE ON M8W1R2

Between: Elizabeth Sydorow and John Sydorow Landlords

And

Amanda Kettle a.k.a. Bonita Kettle and Tenants
Donald Kettle

REVIEW ORDER

Elizabeth Sydorow and John Sydorow (the 'Landlords') applied for an order to terminate the tenancy and evict Amanda Kettle a.k.a. Bonita Kettle and Donald Kettle (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was resolved by order LTB-L-000428-21 issued on March 22, 2023.

On March 31, 2023, Bonita Kettle requested a review of the order and that the order be stayed until the request to review the order is resolved.

On April 3, 2023 interim order LTB-L-000428-21-RV was issued, staying the order issued on March 22, 2023.

The Request was heard by videoconference on April 19, 2023.

The Landlords and the Tenant, Bonita Kettle attended the hearing.

Determinations:

Request to Review

1. The Tenant testified that she received the notice of hearing and inadvertently marked the date for the hearing in her calendar as January 26, 2023 instead of the actual date of January 16, 2023. She testified that she realized on January 26, 2023 that she made a mistake with the date. She testified that as soon as she received the order, she requested a review of the decision.
2. In *King-Winton v. Doverhold Investments Ltd.*, 2008 CanLII 60708 (ON SCDC), The court states that “being reasonably able to participate in the proceeding must be interpreted broadly, natural justice requires no less”.
3. I accept the Tenant’s submission that she inadvertently marked in her calendar the wrong hearing date, but genuinely intended to participate in the proceedings.
4. The request to review is granted. As a result, order LTB-L-000428-21 issued on March 22, 2023 is cancelled and a new hearing was held to consider the merits of the original application.

L1 Application

5. The Application is amended to include Bonita Kettle as a Tenant. Amanda Kettle is also known as Bonita Kettle.
6. 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.
7. As of the hearing date, the Tenant was still in possession of the rental unit.
8. The lawful rent is \$1,820.00. It is due on the 1st day of each month.
9. Based on the Monthly rent, the daily rent/compensation is \$59.84. This amount is calculated as follows: \$1,820.00 x 12, divided by 365 days.
10. The Tenant has not made any payments since the application was filed.
11. The rent arrears owing to April 30, 2023 are \$34,580.00.
12. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.
13. The Landlord collected a rent deposit of \$1,550.00 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.
14. Interest on the rent deposit, in the amount of \$39.94 is owing to the Tenant for the period from October 1, 2021 to April 19, 2023.

Relief from eviction

15. The Tenant is requesting a little more time to vacate the unit. She testified that she has already started to pack up the unit and is doing so on her own. She testified that it is taking a little bit longer as she hurt her shoulder. She asked for the end of May, or in the alternative, May 15, 2023.
16. The Landlord is requesting a standard order.

17. Based on the submissions, I find that a small delay beyond the standard 11 days is warranted given the Tenant's circumstances.
18. 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 not be unfair to postpone the eviction until May 15, 2023 pursuant to subsection 83(1)(b) of the Act.

It is ordered that:

1. The request to review order LTB-L-000428-21 issued on March 22, 2023 is granted.
 2. Order LTB-L-000428-21 issued on March 22, 2023 is cancelled and replaced by the following:
 3. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
 4. The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:
 1. \$34,781.00 if the payment is made on or before April 30, 2023. See Schedule 1 for the calculation of the amount owing.
- OR
- \$36,601.00 if the payment is made on or before May 15, 2023. See Schedule 1 for the calculation of the amount owing. This amount exceeds the monetary jurisdiction of the Board. This is an amount that the Tenant can choose to pay if they choose not to vacate the rental unit. The Board is not ordering this amount to be paid. This amount is optional and only required if the Tenant elects to remain in the rental unit. Therefore, the Board is not ordering this amount to be paid and is not ordering an amount that exceeds the limit.
5. 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 15, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
 6. 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 15, 2023
 7. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$32,508.02. 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.
 8. The Tenant shall also pay the Landlord compensation of \$59.84 per day for the use of the unit starting April 20, 2023 until the date the Tenant moves out of the unit.
 9. If the Tenant does not pay the Landlord the full amount owing on or before May 8, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 9, 2023 at 6.00% annually on the balance outstanding.

10. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
11. If the unit is not vacated on or before May 15, 2023, then starting May 16, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
12. 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 16, 2023.

April 27, 2023

Date Issued

Emily Robb

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 16, 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.

*Note: When the Board directs payment-out, the Canadian Imperial Bank of Commerce will issue a cheque to the appropriate party named in this notice. The cheque will be in the amount directed plus any interest accrued up to the date of the notice

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 April 30, 2023

Rent Owing To April 30, 2023	\$34,580.00
Application Filing Fee	\$201.00
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	\$34,781.00

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before May 15, 2023

Rent Owing To May 31, 2023	\$36,400.00
Application Filing Fee	\$201.00
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	\$36,601.00

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

Rent Owing To Hearing Date	\$33,896.96
Application Filing Fee	\$201.00
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	- \$1,550.00
Less the amount of the interest on the last month's rent deposit	- \$39.94
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	\$32,508.02
Plus daily compensation owing for each day of occupation starting April 20, 2023	\$59.84 (per day)