



Order under Section 69 Residential Tenancies Act, 2006

Citation: 2819422 Ontario Inc. v Shannon Oriana Jacobs, 2023 ONLTB 32581

Date: 2023-04-26

File Number: LTB-L-061566-22

In the matter of: 11 VALENTINE DR
NORTH YORK ON M3A3J5

Between: 2819422 Ontario Inc. Landlord

And

Shannon Oriana Jacobs Tenant

2819422 Ontario Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Shannon Oriana Jacobs (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on February 23, 2023 and April 14, 2023.

The Landlord's Agent Nasrin Safavi and the Landlord's Legal Representative Jaclyn P. Solomon and the Tenant Shannon Oriana Jacobs attended the hearing.

Determinations:

1. On the February 23, 2023 hearing date, I orally dismissed this application on the basis that the Landlord had already obtained an order for the rent arrears alleged in this L1 application. Upon reflection, and prior to issuing an order dismissing this application, I determined this hearing should be reconvened.
2. On April 14, 2023, prior to this file being called, I heard and granted a Board initiated review of order LTB-L-074301-22. This is the order the Landlord had already obtained for the rent arrears alleged in this L1 application. The order was cancelled and this L1 application then proceeded.

L1 Application

3. At the hearing the Landlord relied on oral submissions and referred to documents to support their application. The Tenant was also given an opportunity to provide submissions and evidence.
4. 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.
5. As of the hearing date, the Tenant was still in possession of the rental unit.
6. The lawful rent is \$5,400.00. It is due on the 14th day of each month.
7. Based on the Monthly rent, the daily rent/compensation is \$177.53. This amount is calculated as follows: \$5,400.00 x 12, divided by 365 days.
8. The Tenant has not made any payments since the application was filed.
9. The rent arrears owing to May 13, 2023 are \$45,425.00.
10. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
11. The Landlord collected a rent deposit of \$5,400.00 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.
12. Interest on the rent deposit, in the amount of \$18.66 is owing to the Tenant for the period from January 15, 2022 to April 14, 2023.

Section 83 Considerations

13. The Landlord sought eviction within eleven days of this order. The Landlord testified she has frequent panic attacks as well as other mental health issues as a result of the accumulating rent arrears. She testified her child has a medical condition and she is unable to be with them because her financial circumstances have required her work significantly more hours. The Landlord further testified she can no longer provide financial support to her elderly parents who have had to use the food bank.
14. The parties agreed they have had a number of discussions in an attempt to negotiate a payment agreement. There was no dispute that agreements had been reached but no payments were made by the Tenant.
15. The Tenant explained that she is mortgage broker and a weak market has affected her income. Her evidence was she lives alone at the rental unit and is experiencing mental health issues and has stress related nerve damage.
16. The Tenant testified she had a family member living in the basement of the rental unit that was contributing towards the monthly rent. The Tenant stated the family member vacated

the rental unit at the request of the Landlord and the contribution she was receiving stopped.

17. No evidence was submitted by the Tenant in relation to any discussions that occurred between herself and the Landlord concerning the departure of this family member. No lease agreement was submitted into evidence showing this family member was a tenant. I was not convinced on a balance of probabilities the Tenant proved any impropriety on the part of the Landlord that would make their calculation of the rent arrears inaccurate. I considered this aspect only in relation to why the Tenant fell into arrears of rent.
18. The Tenant requested I order a payment plan. I canvassed the Tenant's monthly income and she advised me it fluctuates. The monthly range provided to me at the hearing considered January, February and March of 2023. The Tenant's income of none of these months was ever more than the monthly rent. The Tenant's evidence was that while she had earned almost \$10,000.00 thus far in 2023, she paid none of it to the Landlord as she had other obligations. Based on the financial circumstances disclosed by the Tenant, I find the tenancy is no longer sustainable.
19. 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 13, 2023 pursuant to subsection 83(1)(b) of the Act. This extra time is meant to balance the interests of the Landlord while providing the Tenant almost one month from the date of the hearing to find alternative living accommodations. **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:**
 - \$45,611.00 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 \$34,969.87. 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 \$177.53 per day for the use of the unit starting April 15, 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.

April 26, 2023

Date Issued

John Cashmore

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 13, 2023

Rent Owing To May 13, 2023	\$45,425.00
Application Filing Fee	\$186.00
Total the Tenant must pay to continue the tenancy	\$45,611.00

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

Rent Owing To Hearing Date	\$40,202.53
Application Filing Fee	\$186.00
Less the amount of the last month's rent deposit	- \$5,400.00
Less the amount of the interest on the last month's rent deposit	- \$18.66
Total amount owing to the Landlord	\$34,969.87
Plus daily compensation owing for each day of occupation starting April 15, 2023	\$177.53 (per day)