



Order under Section 69 Residential Tenancies Act, 2006

Citation: Austin Wycisk v John Rauza, 2023 ONLTB 32441

Date: 2023-04-21

File Number: LTB-L-057260-22

In the matter of: 4, 15 Sinasac Street Harrow
ON N0R1G0

Between: Austin Wycisk Landlord

And

Tenant

John Rauza

Austin Wycisk (the 'Landlord') applied for an order terminating the tenancy and evicting John Rauza (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on April 13, 2023. Only the Landlord attended the hearing.

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. The Tenant was still in possession of the rental unit as of the date of the hearing.
2. The lawful rent is \$975.00 per month, and it is due on the first day of the month.
3. The Tenant has not made any payments to the Landlord since the application was filed.
4. The Landlord's N4 Notice is defective on the basis that the notice filed with the Board did not include the rental unit number as required by subsection 43(1)(a) of the *Residential Tenancies Act, 2006* (the 'Act').
5. The notice also did not specify the proper rental period, which the Landlord confirmed runs from the first of the month to the last day of the month.
6. The N4 Notice detailed that the rent period starts on August 1, 2022 and ends on September 14, 2022.

7. The notice is defective on the basis that it does not meet the statutory requirements pursuant to subsection 59(2) of the Act in that it does not correctly set out the rent due in order for the Tenants to void the notice.

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8. This reasoning is also consisted with the Divisional Court in *Ball v. Metro Capital Property*, [2002] O.J. No. 5931 (Div. Ct.) whereby the court found that the notice was seriously deficient in that it failed to provide details about the reason for the notice, was void as a result, and that the Member had no jurisdiction to make the order for termination that was requested.
9. In light of these findings at the hearing, the Landlord requested to amend their application for arrears of rent only and not termination and elected to proceed with the application on this basis for the period ending April 30, 2023.
10. The L1 application indicated that the Tenant owes rent arrears from June 1, 2022 to October 1, 2022. The Landlord requested to amend their application to correct the last day of the rental period to October 31, 2022. The Landlord confirmed that the \$4,875.00 claimed in the application is reflective of the rent owing to October 31, 2022.
11. Unlike notices of termination, the Act permits amendments to applications providing that it is not unfair to the parties. I see no reason to deny the Landlords request.
12. The lawful rent is \$975.00. It is due on the 1st day of each month.
13. The Tenant has not made any payments since the application was filed.
14. The rent arrears owing for the rental periods of June 1, 2022 through to April 30, 2023 are \$10,725.00.
15. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

It is ordered that:

1. The Tenant shall pay to the Landlord \$10,911.00. This amount includes rent arrears owing from June 1, 2022 to April 30, 2023 and the cost of the application.
2. If the Tenant does not pay the Landlord the full amount owing on or before May 2, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 3, 2023 at 6.00% annually on the balance outstanding.

April 21, 2023

Date Issued

Terri van Huisstede
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.

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