



**Order under Section 69
Residential Tenancies Act, 2006**

Citation: 913255 Ontario Inc. O/A YorkWest Developments v Gulyas, 2023 ONLTB 31862

Date: 2023-04-21

File Number: LTB-L-023110-22

In the matter of: Bsmt, 37 BELLWOODS AVE TORONTO
ON M6J3N4

Between: 913255 Ontario Inc. O/A YorkWest Developments Landlord

And

Josh Gulyas Tenant

913255 Ontario Inc. O/A YorkWest Developments (the 'Landlord') applied for an order to terminate the tenancy and evict Josh Gulyas (the 'Tenant') because the Tenant has been persistently late in paying the Tenant's rent.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on March 21, 2023.

The Landlord Salvatore Benedetto and the Tenant attended the hearing.

Determinations:

The Application

1. As explained below, the Landlord has proven on a balance of probabilities that the Tenant has persistently paid their rent late. However, relief from eviction is granted subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On April 8, 2022, the Landlord gave the Tenant an N8 notice of termination deemed served on April 13, 2022. The notice of termination alleges that the Tenant persistently paid their rent late between January 2021 and April 2022. During that time period rent is often paid near the middle or end of the month and is sometimes paid in instalments.

4. The Tenant does not contest that they paid their rent late between January 2021 and April 2022. As such I find on a balance of probabilities that the Tenant has consistently paid their rent late.

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Relief From Eviction

5. The Tenant requests relief from eviction in the form of a pay on time conditional order. The Landlord is opposed to relief from eviction.
6. Since the N8 notice was served the Tenant paid their rent late in May 2022. However, since June 2022 the Tenant has paid all rent either early or on time.
7. The Landlord testified that the Tenant's late payments impacts his ability to pay his mortgage and that causes financial strain and mental hardship. The Landlord testified that there has been a history of late and non payment by the Tenant. The Landlord testified that the only reason that the Tenant started paying their rent on time is because the Landlord served them with a notice of termination. The Landlord submits that the Tenant will comply with a conditional pay on time order but then will stop paying their rent on time once the order lapses.
8. The Tenant testified that he did withhold rent payments in the past due to maintenance concerns, but since learning that there is no authority for him to do so, he has stopped.
9. The Tenant submitted a letter from his employer that states he received a salary increase in March 2022. I am satisfied that the stated salary is sufficient to afford the monthly rent.
10. The Tenant testified that rents are rising in the community in which he works and lives, and as such he will be at risk of homelessness if evicted.
11. 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 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. In making that determination I have considered the impact that the Tenant's late payment were having on the Landlord and that there has been a history of late and non-payment. However, the Tenant has paid their rent on time for the last 10 months and has the income to support the tenancy. It is fair in those circumstances to give the Tenant an opportunity to save the tenancy.

It is ordered that:

1. The tenancy between the Landlord and the Tenant continues if the Tenant meets the following condition: The Tenant shall pay to the Landlord new rent on time and in full, as it becomes due and owing, for the period between May 1, 2023 to April 1, 2024.
2. If the Tenant fails to comply with the condition set out in paragraph 1 of this order, the Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenant. The Landlord must make the application within 30 days of a breach of a condition. This application is made to the LTB without notice to the Tenant.
3. On or before May 2, 2023 The Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.

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4. 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

Amanda Kovats

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.

