



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

Citation: Equiton Residential Income Fund LP. v Claudes, 2023 ONLTB 30727

Date: 2023-04-18

File Number: LTB-L-048513-22

In the matter of: 807, 125 WELLINGTON ST N
HAMILTON ON L8R3J4

Between: Equiton Residential Income Fund LP. Landlord

And

Fernanda Claudes Tenant

Equiton Residential Income Fund LP. (the 'Landlord') applied for an order to terminate the tenancy and evict Fernanda Claudes (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on March 27, 2023.

The Landlord's legal representative, Daniel Abraham ('DA'), and the Tenant attended the hearing.

Determinations:

1. 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.
2. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$1,618.18. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$53.20. This amount is calculated as follows: \$1,618.18 x 12, divided by 365 days.
5. The Tenant has paid \$1,200.00 to the Landlord since the application was filed.
6. The parties agreed the rent arrears owing to March 31, 2023 are \$12,144.72.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. There is no last month's rent deposit.

9. At the hearing the Tenant sought an order implementing a payment plan that would enable her to repay her rent arrears. The Tenant's evidence is that she presently has no source of income. She is not employed after having lost her cleaning job on November 28, 2022. She stated that she contacted Ontario Works on March 13, 2023, which she would intend to rely on with respect to a payment plan, but she did not present any information or documentation confirming what, if any, payment she would be receiving from Ontario Works.
10. The Tenant suggested a payment plan whereby she would pay \$1000.00 toward her rent arrears each month, in addition to paying the ongoing rent as it comes due. The Tenant stated she would pay this first from any money received from Ontario Works, and if more money is needed, she would ask family members for help. The Tenant's family members were not present to give evidence, and the Tenant did not present any supporting documentation with respect to what, if any, financial assistance she can expect from her family members.
11. I am not convinced that the Tenant's proposed payment plan is realistic, or that she would be able to comply with it. This is because the Tenant has significant rent arrears, her proposed payment plan would require her to pay a total of \$2,618.18 per month for 12 months, and there was no reliable or specific evidence about what income the Tenant will have or what assistance she will receive from family members.
12. The Tenant lives in the rental unit with her one-year-old child. The Tenant was not sure how long she would need to find new living accommodation, but suggested she may need four months.
13. DA submitted that accruing and carrying further debt from the Tenant is prejudicial to the Landlord, but also acknowledged that this is a relatively large Landlord, and that in light of the Tenant's circumstances, some delay in eviction of not more than 45 days may be appropriate. DA stated that the Landlord has reached out to the Tenant about a payment plan many times, but that she could not make one because she does not have any income.
14. I advised the Tenant at the end of the hearing that I would issue an order terminating her tenancy, and I would think about how long to delay eviction, so that she could begin looking for a new place to live immediately. Eviction will be delayed to May 31, 2023. This delay is to allow the Tenant adequate time to find a new place to live, considering that she is in a difficult position financially, and is living alone with a one-year-old child.
15. 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 31, 2023 pursuant to subsection 83(1)(b) of the Act.

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:
 - \$13,948.90 if the payment is made on or before April 30, 2023. See Schedule 1 for the calculation of the amount owing.

OR

- \$15,567.08 if the payment is made on or before May 31, 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 31, 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 31, 2023
 5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$12,148.94. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
 6. The Tenant shall also pay the Landlord compensation of \$53.20 per day for the use of the unit starting March 28, 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 31, 2023, the Tenant will start to owe interest. This will be simple interest calculated from June 1, 2023 at 6.00% annually on the balance outstanding.
 8. If the unit is not vacated on or before May 31, 2023, then starting June 1, 2023, the Landlord 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 Landlord on or after June 1, 2023.

2023 ONLTB 30727 (CanLII)

April 18, 2023

Date Issued

Mark Melchers

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 December 1, 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 April 30, 2023

Rent Owing To April 30, 2023	\$14,962.90
Application Filing Fee	\$186.00

NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$1,200.00
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	\$13,948.90

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before May 31, 2023

Rent Owing To May 31, 2023	\$16,581.08
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$1,200.00
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	\$15,567.08

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

Rent Owing To Hearing Date	\$13,162.94
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$1,200.00
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	- \$
Less the amount of the interest on the last month's rent deposit	- \$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 amount owing to the Landlord	\$12,148.94
Plus daily compensation owing for each day of occupation starting March 28, 2023	\$53.20 (per day)

