



Order under Section 69 Residential Tenancies Act, 2006

Citation: Pahuta v Cray, 2023 ONLTB 30684

Date: 2023-04-12

File Number: LTB-L-041452-22

In the matter of: 8, 250 BIRMINGHAM ST
ETOBICOKE ON M8V2E1

Between: Donna Pahuta Landlord

And

Andrew Cray and Krista Langille Tenants

Donna Pahuta (the 'Landlord') applied for an order to terminate the tenancy and evict Andrew Cray and Krista Langille (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

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

The Landlord, the Landlord's agent N Ruller and the Tenants attended the hearing.

Determinations:

1. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Nonpayment of Rent (N4 Notice). The Tenants 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 Tenants were still in possession of the rental unit.
3. The lawful rent is \$1,518.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$49.91. This amount is calculated as follows: \$1,518.00 x 12, divided by 365 days.
5. The Tenants have paid \$500.00 to the Landlord since the application was filed.

6. The rent arrears owing to February 28, 2023 are \$14,808.00.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

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8. The Landlord collected a rent deposit of \$1,500.00 from the Tenants 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.
9. Interest on the rent deposit, in the amount of \$58.58 is owing to the Tenants for the period from January 29, 2021 to February 27, 2023.

Section 83 Considerations

10. The Tenants testified that they have 2 children that attend school in the area. The Tenants said that other outstanding debts are paid and that they are confident they are able to repay the rental arrears. The Tenants testified that they wish to maintain their tenancy. The Tenants suggested a repayment plan of \$500.00 on the 1st day of the month, \$300.00 on the 15th day of the month and \$400.00 on the 20th day of the month, in addition to the regular rental payments.
11. The Landlord testified that she does not believe that the Tenants will repay the rental arrears.
12. 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. I am satisfied that the Tenants have an intention to continue the tenancy and their evidence suggests that they are able to repay the rental arrears. The length of the repayment of rental arrears does not unreasonably prejudice the Landlord.

It is ordered that:

1. The Tenants shall pay the Landlord **\$14,994.00**, which represents the arrears of rent and costs outstanding for the period ending February 28, 2023.
2. The Tenants shall pay the amount in paragraph 1 as follows:
 - (a) During the period May 1, 2023 to April 1, 2024, the Tenants shall make the following payments each month:

i. **\$500.00** on or before the 1st day of the month ii.

\$300.00 on or before the 15th day of the month

iii. **\$400.00** on or before the 20th day of the month

(b) The remaining balance of **\$594.00** shall be paid on or before May 1, 2024.

3. The Tenants shall also pay the Landlord **\$3,036.00** which represents the regular monthly rent for March 2023 and April 2023, on or before April 30, 2023.

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4. The Tenants shall also pay the Landlord the monthly rent for the months of May 2023 to May 2024 in full and by the **first day** of each corresponding month.
5. If the Tenants fail to make any of the payments in accordance with paragraphs 2 through 4, and by the dates required then:
- (a) The Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the "Act") for an order terminating the tenancy and evicting the Tenants and for the payment of any new arrears of rent and NSF charges not already ordered under paragraph 1 of this order. The Landlord must make the application within 30 days of a breach of a condition set out in paragraph 2 of this order.
- (b) The balance owing under paragraph 1 of this order shall become payable on the day following the date of default. The monies owing shall bear interest at the post-judgment interest rate determined under subsection 207(7) of the Act.

April 12, 2023

Date Issued

Heather Kenny

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.