



Order under Section 69 Residential Tenancies Act, 2006

Citation: Housing York Inc v Kikhtenko, 2023 ONLTB 28197

Date: 2023-04-12

File Number: LTB-L-026311-22

In the matter of: 12, 95 Inverlochy Blvd
Thornhill ON L3T3R5

Between: Housing York Inc Landlord

And

Karina Kikhtenko Tenant

Housing York Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Karina Kikhtenko (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 16, 2023.

Only the Landlord's employee S Ellis attended the hearing.

As of 10:52 am, 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 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 \$1,574.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$51.75. This amount is calculated as follows: \$1,574.00 x 12, divided by 365 days.
5. The Tenant has paid \$13,815.00 to the Landlord since the application was filed.
6. The rent arrears owing to January 31, 2023 are \$546.00.

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 \$1,196.18 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.
9. Interest on the rent deposit, in the amount of \$21.38 is owing to the Tenant for the period from May 1, 2022 to January 16, 2023.
10. The Landlord's employee SE testified that the Tenant has been making payments in addition to the lawful monthly rent. SE said that the Tenant had agreed to a payment plan of \$50.00 each month to resolve the remaining arrears and that the Landlord was agreeable to that payment plan.
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 pursuant to subsection 83(1)(a) of the Act.

It is ordered that:

1. The Tenant shall pay to the Landlord \$732.00 for arrears of rent up to January 31, 2023 and costs.
2. The Landlord's application for eviction of the Tenant is denied on the condition that:
 - a) The Tenant shall pay installments of \$50.00 on or before the 1st day of the month for the fourteen (14) month period commencing May 1, 2023 to June 1, 2024; and
 - b) The remaining balance of \$32.00 shall be paid on or before July 1, 2024.
 - c) The Tenant shall also pay to the Landlord new rent on time and in full as it comes due and owing for the period May 1, 2023 to July 1, 2024 or until the arrears are paid in full, whichever date is earliest.
3. If the Tenant fails to make any of the payments in accordance with paragraph 2, 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

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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.