



Order under Section 21.2 of the Statutory Powers Procedure Act and the Residential Tenancies Act, 2006

Citation: 13172511 Canada Inc. v Robert, 2023 ONLTB 30945

Date: 2023-04-11

File Number: LTB-L-042594-22-RV

In the matter of: 1257 PETTIT RD
FORT ERIE ON L2A5A2

Between: 13172511 Canada Inc. Landlord

And

Kristi Robert Tenant

Review Order

13172511 Canada Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Kristi Robert (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-042594-22 issued on March 7, 2023.

On March 7, 2023, the Tenant requested a review of the order and that the order be stayed until the request to review the order is resolved.

On March 7, 2023, interim order LTB-L-042594-22-RV-IN was issued, staying the order issued on March 7, 2023.

This Tenant's request to review was heard in by videoconference on March 27, 2023.

The Tenant, the Landlord's Agent, A. Mathur, and the Landlord's Legal Representative, Angela Browne, attended the hearing. The Tenant spoke with Duty Counsel prior to the hearing.

Determinations:

Request to review

1. Based on the submissions made at the hearing, the Tenant's request to review is granted. The matter was heard again.
2. The Tenant says she did not receive Notice of Hearing until March 3, 2023. The Tenant says she checked on Feb 20 and then Feb 27 did not receive Notice of Hearing. Had she known of the hearing, she would have participated.
3. "Being reasonably able to participate in the proceeding must be interpreted broadly, natural justice requires no less." *King-Winton v. Doverhold Investments Ltd.*, 2008 CanLii 60708 (ON SCDC), at para. 3.

4. In this case, the Tenant has never delayed in pursuing her remedies – the Tenant requested a review the same day she received the order. The reality is that the Tenant never had an opportunity to be heard. She is entitled to a hearing.
5. For the above reasons, the Tenant's request to review was granted and the Landlord's application was heard again.

L1 application

6. The Tenant attempted to raise her own issues pursuant to s.82 of the *Residential Tenancies Act, 2006* (the 'RTA'). I declined to hear the Tenant's issues because the Tenant had not complied with the advanced notice requirements in accordance with s.82 of the RTA and Rule 19.4 of the LTB's Rules of Procedure. The Tenant did not provide a reasonable explanation for her non-compliance.
7. 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.
8. As of the hearing date, the Tenant was still in possession of the rental unit.
9. The parties agree that the lawful rent is \$4,500.00. It is due on the 1st day of each month.
10. Based on the Monthly rent, the daily rent/compensation is \$147.95. This amount is calculated as follows: \$4,500.00 x 12, divided by 365 days.
11. The Tenant has paid \$3,000.00 since the application was filed. This determination is based on the ledger provided by the Landlord outlining the payments made by the Tenant since January 1, 2022. The Tenant did not dispute the payments noted on the Landlord's ledger.
12. The rent arrears owing to March 31, 2023 are \$47,400.00.
13. The Landlord's claim for the period ending March 31, 2023 exceeds the Board's monetary jurisdiction of \$35,000.00. The Landlord indicated a desire to proceed with the hearing of the application and voluntarily waived the portion of the claim that exceeds the Board's monetary jurisdiction.
14. The Landlord collected a rent deposit of \$4,220.00 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.
15. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
16. 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 April 15, 2023 pursuant to subsection 83(1)(b) of the Act. The Tenant testified she did not wish to stay at the rental unit. She has somewhere to move into as of the end of March 2023. The Tenant requested this date of termination and the Landlord consented.

It is ordered that:

1. The interim order issued on March 7, 2023 is cancelled.
2. The request to review order LTB-L-042594-22, issued on March 7, 2023, is granted. The order is cancelled and replaced by the following.
3. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
4. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$52,086.00 if the payment is made on or before April 15, 2023. See Schedule 1 for the calculation of the amount owing.
5. 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 April 15, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
6. **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 April 15, 2023**
7. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$35,186.00. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.
8. If the Tenant does not pay the Landlord the full amount owing on or before April 22, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 23, 2023 at 6.00% annually on the balance outstanding.
9. If the unit is not vacated on or before April 15, 2023, then starting April 16, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
10. 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 April 16, 2023.

April 11, 2023
Date Issued

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 October 16, 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.

*Note: When the Board directs payment-out, the Canadian Imperial Bank of Commerce will issue a cheque to the appropriate party named in this notice. The cheque will be in the amount directed plus any interest accrued up to the date of the notice

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 15, 2023

Rent Owing To April 30, 2023	\$54,900.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$3,000.00
Total the Tenant must pay to continue the tenancy	\$52,086.00

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

Rent Owing To Hearing Date	\$54,542.60
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$3,000.00
Less the amount of the last month's rent deposit	- \$4,220.00
Total amount owing to the Landlord (LTB's monetary jurisdiction)	\$35,186.00