



Order under Section 69 Residential Tenancies Act, 2006

Citation: Sarah Mcdonald Place v Sterling, 2023 ONLTB 29457

Date: 2023-04-06

File Number: LTB-L-050728-22

In the matter of: 106, 1467 WHITES RD
PICKERING ON L1V6X1

Between: Sarah Mcdonald Place Landlord

And

Denecia Sterling Tenant

Sarah Mcdonald Place (the 'Landlord') applied for an order to terminate the tenancy and evict Denecia Sterling (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 Nidhi Sharma and the Tenant Denecia Sterling attended the hearing.

Determinations:

1. At the hearing, the Landlord's Legal Representative relied on oral submissions and referred to documents to support their application. The Tenant was also given an opportunity to provide submissions and evidence.
2. 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.
3. As of the hearing date, the Tenant was still in possession of the rental unit.
4. The lawful rent is \$1,239.00. It is due on the 1st day of each month.
5. Based on the Monthly rent, the daily rent/compensation is \$40.73. This amount is calculated as follows: \$1,239.00 x 12, divided by 365 days.
6. The Tenant has paid \$3,720.00 to the Landlord since the application was filed.
7. The rent arrears owing to March 31, 2023 are \$6,192.00. The Tenant did not dispute the amount of rent arrears owing.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. There is no last month's rent deposit.

10. The Landlord sought a termination of the tenancy effective April 30, 2023. They submitted the tenancy has been before the Board on six previous occasions for these same issues. The Tenant did not dispute this history but submitted she always followed through on previous payment agreements.
11. The Landlord submitted they did not attempt to negotiate a payment agreement with the Tenant for these rent arrears given the number of times the tenancy had been before the Board. The Tenant submitted she had made a proposal to the Landlord prior to the hearing but it was not accepted.
12. The Tenant submitted she lost a rent subsidy during the Covid 19 pandemic. She also lost her employment. She lives with her two children aged 13 and 21.
13. I canvassed the Tenant's monthly income to determine if a conditional order was realistic. The proposal made by the Tenant at the hearing would see her using the food bank and a neighbour's wife in order to make the payments she was proposing.
14. I asked the Tenant why she had not made any payments to the Landlord since November 2022 to illustrate her proposal was viable. She stated she wanted to wait for the hearing in the hopes of receiving an ordered payment plan and be in a position to avoid defaulting on it.
15. I was not satisfied the Tenant's current income could support the monthly rent and a meaningful payment towards the rent arrears. As a result, I find the tenancy is no longer sustainable.
16. The Tenant requested a delayed termination date until the end of the current school year if I did not issue a conditional order.
17. 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 15, 2023 pursuant to subsection 83(1)(b) of the Act. This additional time is meant to balance the interests of the Landlord and the Tenant. It will provide the Tenant some additional time to make arrangements for the final weeks of the school year as well as find new living accommodations.

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:**
 - \$7,617.00 if the payment is made on or before April 30, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 - \$8,856.00 if the payment is made on or before May 15, 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 15, 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 15, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$6,238.71. 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 \$40.73 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 15, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 16, 2023, 2023 at 6.00% annually on the balance outstanding.
8. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
9. If the unit is not vacated on or before May 15, 2023, then starting May 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 May 16, 2023.

April 6, 2023
Date Issued

John Cashmore
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 November 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.

**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	\$11,151.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$3,720.00
Total the Tenant must pay to continue the tenancy	\$7,617.00

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before May 15, 2023

Rent Owing To May 31, 2023	\$12,390.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$3,720.00
Total the Tenant must pay to continue the tenancy	\$8,856.00

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

Rent Owing To Hearing Date	\$9,772.71
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$3,720.00
Total amount owing to the Landlord	\$6,238.71
Plus daily compensation owing for each day of occupation starting March 28, 2023	\$40.73 (per day)