



**Order under Subsection 87(1)
Residential Tenancies Act, 2006**

Citation: Liani v Chong, 2023 ONLTB 29133

Date: 2023-04-06

File Number: LTB-L-046858-22

In the matter of: 501, 200 EAGLE ST N
CAMBRIDGE ON N3H5S9

Between: Catherine Patrica Liani Landlord

And

Cha Chong Tenants Yong Kyon Chong

Catherine Patrica Liani and Kevin Arbuckle (the 'Landlord') applied for an order requiring Cha Chong and Yong Kyon Chong (the 'Tenants') to pay the rent that the Tenants owes.

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

Only the Landlord's Agent, Kevin Arbuckle attended the hearing.

As of 9:35 a.m., the Tenants were 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's Agent submitted that on July 9, 2022, the Landlord served the Tenant with an N4 notice of termination ('N4 Notice') with a termination date of July 22, 2022 by placing it under the door of the rental unit or through a mail slot in the door.
2. Subsection 59(1)(b) of the Residential Tenancies Act, 2006 (the 'Act') states that a notice of termination shall provide a termination date not earlier than the 14th day after the notice is given.

3. The termination date on the N4 Notice was July 22, 2022, less than 14 days after it was deemed served. Accordingly, I find this notice is not valid as it was not served in accordance with subsection 59(1)(B) of the Act.

Amending L1 Application to L9 Application for Arrears and Costs Only

4. As a result of the defects with the N4 Notice, the options were explained to the Landlord's Agent including the possibility of requesting consent to withdraw this L1 Application to correct the N4 Notice, which may lead to filing a new L1 Application if he wished to pursue **File Number:** LTB-L-046858-22

eviction based on these periods of rent arrears. The Landlord's Agent requested to amend this application to an L9 application for arrears only, without seeking eviction. I consented to the request to seek only arrears. The Landlord's Agent was aware that the Board's order on an L9 application would be only for arrears, which would have to be enforced in another jurisdiction such as small claims court upon any breach.

5. The issue of amending an application was raised in the case *Nejad v Preddie*, 2016 ONSC 4348 (CanLII), where the Divisional Court upheld a Board decision allowing an application to proceed to collect arrears despite a defective N4 notice.
6. Further, section 201(1)(f) of the Act permits the Board to amend an application during a hearing, if the Board considers it appropriate to do so and if amending the application would not be unfair to any party. I consented to the request to amend the application as there is no prejudice or unfairness to the Tenant since the N4 notice contemplates that arrears may be sought.
7. As of the hearing date, the Tenants were still in possession of the rental unit.
8. The Tenants did not pay the total rent they were required to pay for the period from January 1, 2022 to March 31, 2023.
9. The lawful rent is \$1,746.83. It is due on the 1st day of each month.
10. The Tenants have paid \$9,120.00 to the Landlord after the application was filed.
11. The rent arrears owing to March 31, 2023 are \$7,260.06
12. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

It is ordered that:

1. The Tenants shall pay to the Landlord \$7,446.06. This amount includes rent arrears (\$7260.06) owing up to March 31, 2023 and the cost of the application (\$186.00).
2. If the Tenants does not pay the Landlord the full amount owing on or before April 17, 2023, the Tenants will start to owe interest. This will be simple interest calculated from April 18, 2023 at 6.00% annually on the balance outstanding.

April 6, 2023

Date Issued

Camille Clyne

Member, Landlord and Tenants 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.