



Order under Section 69 Residential Tenancies Act, 2006

Citation: Windsor Essex Community Housing Corporation v Ntetani Batuvu, 2023 ONLTB 30313

Date: 2023-04-05

File Number: LTB-L-039970-22

In the matter of: 1745 MCKAY AVE
WINDSOR ON N9B3P3

Between: Windsor Essex Community Housing Corporation Landlord

And

Fifi Matanga Kumbi and Jean Ntetani Batuvu Tenants

Windsor Essex Community Housing Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Fifi Matanga kumbi and Jean Ntetani batuvu (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

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

Only the Landlord's representative C Parrott attended the hearing.

As of 10:17 am, 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 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 \$842.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$27.68. This amount is calculated as follows: \$842.00 x 12, divided by 365 days.
5. The Tenants have paid \$6,449.00 to the Landlord since the application was filed.

6. The rent arrears owing to February 28, 2023 are \$947.00.
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. There is no last month's rent deposit.
9. The Landlord's representative said that prior to the hearing, the Tenants requested a payment plan consisting of monthly arrears payments of \$120.00 in addition to regular monthly rent until the arrears were paid in full.
10. 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.

It is ordered that:

1. The Tenants shall pay the Landlord **\$1,133.00**, which represents the arrears of rent and costs outstanding for the period ending January 31, 2023.
2. The Landlord's application for eviction of the Tenants is denied on the condition that:
 - (a) The Tenants shall pay installments of **\$120.00** on or before the 1st day of the month for the nine (9) month period commencing May 1, 2023 to January 1, 2024.
 - (b) The remaining balance of **\$53.00** shall be paid on or before February 1, 2024.
 - (c) The Tenants shall pay the Landlord the monthly rent for the months of May 2023 to February 2024 in full and by the **first day** of each corresponding month.
3. If the Tenants fail 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 5, 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.

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