



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

Citation: BLOUIN v BROWN, 2023 ONLTB 28372

Date: 2023-04-03

File Number: LTB-L-058431-22

In the matter of: 102 PLACE NOTRE DAME
TIMMINS ONTARIO P4R0E2

Between: 2219506 ONTARIO INC and MAUREEN BLOUIN Landlord

And

JUSTIN BROWN Tenant

2219506 ONTARIO INC and MAUREEN BLOUIN (the 'Landlord') applied for an order to terminate the tenancy and evict Justine Brown (the 'Tenant') because the Tenant did not pay the rent that the Tenants owe.

As a result of a defect with the N4 Notice of Termination, the Landlord requested to convert the application to an L9 application for arrears only. That is, termination was no longer before me, and the parties had the opportunity to provide submissions on arrears.

This application was heard by videoconference on March 2, 2023.

The Landlord and the Tenant attended the hearing.

Determinations:

Invalid Notice of Termination

1. The N4 Notice of Termination ('N4') that was served upon the Tenant was not an accurate statement of the outstanding arrears at the time it was served. The N4 covered the period of August and May 2022 but the Landlord stated during the hearing that there were outstanding arrears that pre-dated the N4 that had not been included.
2. Section 59(2) of the *Residential Tenancies Act, 2006* ('the Act') says the following regarding what must be included in an N4 notice: "the notice of termination shall set out the amount of rent due and shall specify that the tenant may avoid the termination of the tenancy by paying, on or before the termination date specified in the notice, the rent due as

set out in the notice and any additional rent that has become due under the tenancy agreement as at the date of payment by the tenant.

3. There are two problems with not including all outstanding arrears of rent on an N4 notice. The first is that failing to do so is a direct contravention of section 59(2) which requires that the N4 notice state the amount of rent due. The second is that failing to include all

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outstanding arrears of rent effectively removes the tenant's meaningful opportunity to void the notice. This is because the tenant has not been given a clear statement of what is owing, and the landlord may be attributing any payments made by the tenant, to arrears that pre-date the notice, and therefore not to the amount required to void the notice. For those reasons, I found the N4 notice to be invalid. An invalid notice cannot ground an eviction.

4. The Landlord requested to convert the application to an L9 application for arrears only. That is, termination was no longer before me, and the parties had the opportunity to provide submissions on arrears.

The Application

5. As of the hearing date, the Tenant was still in possession of the rental unit.
6. The Tenant did not pay the total rent they were required to pay for the period from April 1, 2022 to March 31, 2023.
7. The lawful rent is \$431.40. It is due on the 1st day of each month.
8. The parties agree that the rent arrears owing to March 31, 2023 are \$431.49.
9. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.

It is ordered that:

1. The Tenant shall pay to the Landlord \$632.49. This amount includes rent arrears owing up to March 31, 2023 and the cost of filing the application.
2. If the Tenant does not pay the Landlord the full amount owing on or before April 14, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 15, 2023 at 6% annually on the balance outstanding.

April 3, 2023

_____ Amanda Kovats

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.

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