



Order under Section 69 Residential Tenancies Act, 2006

Citation: Starlight Blackstar OpCo 2 ULC v Mcneil, 2023 ONLTB 27273

Date: 2023-03-31

File Number: LTB-L-047110-22

In the matter of: 503, 750 MORNINGSIDE AVE
SCARBOROUGH ON M1C3A1

Between: Starlight Blackstar OpCo 2 ULC Landlord

And

Michaela McNeil Tenant

Starlight Blackstar OpCo 2 ULC (the 'Landlord') applied for an order to terminate the tenancy and evict Michaela McNeil (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on March 14, 2023.

The Landlord's Legal Representative Lan Mai and the Tenant Michaela McNeil 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 \$1,896.48. It is due on the 1st day of each month.
5. Based on the Monthly rent, the daily rent/compensation is \$62.35. This amount is calculated as follows: \$1,896.48 x 12, divided by 365 days.
6. The Tenant has paid \$9,950.00 to the Landlord since the application was filed.

7. The rent arrears owing to March 31, 2023 are \$25,880.80.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlord collected a rent deposit of \$1,874.00 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.
10. Interest on the rent deposit, in the amount of \$9.37 is owing to the Tenant for the period from January 1, 2023 to March 14, 2023.
11. The Landlord sought an eviction within 11 days of this order although stated they would not be opposed to an extended time period. The Landlord submitted discussions took place with the Tenant in an effort to negotiate a payment agreement however nothing materialized.
12. The Tenant requested a payment order to address the outstanding arrears. She stated she had lost her job but is now currently working. I canvassed the Tenant's monthly income with her as well as the amount she believed she could reasonably afford to pay towards the rent arrears on a monthly basis. The amount suggested by the Tenant would require a payment schedule lasting over 50 months and I did not find this reasonable or fair to the Landlord.
13. The Tenant also requested an extended termination date of April 30, 2023 in order to find alternate living accommodations. I asked the Tenant if there were any circumstances she wanted me to be aware of that would make an eviction unfair. She advised me there were none and reiterated her request for an ordered payment plan.
14. 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 22, 2023 pursuant to subsection 83(1)(b) of the Act. While this is not the total time the Tenant requested, I find some additional time is fair and reasonable when I take into account the Landlord's circumstances, their agreement to a short delay and the fact the Tenant has made some payments to the Landlord.

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:**
 - \$26,066.80 if the payment is made on or before March 31, 2023. See Schedule 1 for the calculation of the amount owing.

OR

- \$27,963.28 if the payment is made on or before April 22, 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 April 22, 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 April 22, 2023**
 5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$23,159.85. 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.
 6. The Tenant shall also pay the Landlord compensation of \$62.35 per day for the use of the unit starting March 15, 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 April 22, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 23, 2023 at 5.00% 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 April 22, 2023, then starting April 23, 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 23, 2023.

March 31, 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 October 23, 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 March 31, 2023

Rent Owing To March 31, 2023	\$35,830.80
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$9,950.00
Total the Tenant must pay to continue the tenancy	\$26,066.80

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before April 22, 2023

Rent Owing To April 30, 2023	\$37,727.28
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$9,950.00
Total the Tenant must pay to continue the tenancy	\$27,963.28

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

Rent Owing To Hearing Date	\$34,807.22
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$9,950.00
Less the amount of the last month's rent deposit	- \$1,874.00
Less the amount of the interest on the last month's rent deposit	- \$9.37
Total amount owing to the Landlord	\$23,159.85
Plus daily compensation owing for each day of occupation starting March 15, 2023	\$62.35 (per day)