



Order under Section 69 Residential Tenancies Act, 2006

Citation: Centurion Property Associates Inc v Hassan, 2023 ONLTB 28858

Date: 2023-03-30

File Number: LTB-L-006766-22

In the matter of: 1609, 5249 DUNDAS ST W
ETOBICOKE ON M9B1A5

Between: Centurion Property Associates Inc Landlord

And

Hussein Hassan Tenant

2023 ONLTB 28858 (CanLII)

Centurion Property Associates Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Hussein Hassan (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard de novo in video conference room 123 on March 24, 2023.

The Landlord's legal representative Robert Rose and the Tenant attended the hearing.

Determinations:

1. 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.
2. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$2,008.82. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$66.04. This amount is calculated as follows: \$2,008.82 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to March 31, 2023 are \$35,920.56. At the hearing, the Tenant agreed with the Landlord's evidence of rent arrears for the period ending March 31, 2023.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

8. The Landlord collected a rent deposit of \$1,985.00 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.
9. 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 30, 2023 pursuant to subsection 83(1)(b) of the Act.
10. The Landlord's representative introduced evidence of the Landlord's efforts to negotiate a payment plan with the Tenant. The Tenant agreed that he received at least one letter from the Landlord, dated February 24, 2022. The Tenant explained that he did not respond to the letter because he wished to address his rental arrears at a Board hearing.
11. Based on the evidence, I find that the Landlord attempted to negotiate with the Tenant a settlement to resolve the Tenant's rent arrears, pursuant to subsection 83(6) of the Act.
12. The Tenant agreed with the Landlord's evidence, that the last payment the Tenant made was in December 2021. The Tenant explained that his work permit as a convention refugee had expired in 2022. The Tenant was therefore unable to earn income and unable to afford the monthly rent.
13. The Tenant testified that he recently received confirmation that his work permit had been renewed. The Tenant further testified that he is presently taking provincial examinations to become a licensed security guard. The Tenant will take the final examination on April 10, 2023.
14. The Tenant agreed at the hearing that he is not able to pay rent on April 1, 2023. The Tenant does not have income at this time. Although the Tenant gave evidence of his belief that he will be eligible to work upon completing his security guard licensing examinations, the Tenant did not have evidence to reliably determine that he will be employed and able to pay rent, even starting from May 1, 2023. That is, the Tenant did not lead evidence of an offer of employment. The Tenant therefore was not able to propose a payment plan.
15. The Tenant testified that he will require time to find new accommodations. The Tenant anticipates he will be required to pay a rent deposit, and rent for the first month, at a new residence. In response to the Landlord's representative's request to terminate the tenancy and evict the Tenant 11 days after this order, the Tenant testified that he would face hardship if he were unable to take the final security guard examination on April 10, 2023.
16. In the circumstances, I find it is appropriate to terminate the tenancy and evict the Tenant. The Tenant has not proven, on a balance of probabilities, that the rental unit is affordable. However, I am mindful of the Tenant's evidence, including evidence of his final security guard examination. Since the Landlord is holding a rent deposit from the Tenant, I find it is not unfair to postpone enforcing the eviction until April 30, 2023, pursuant to subsection 83(1)(b) of the Act.
17. The Act's monetary jurisdiction pursuant to subsection 207(1) of the Act permits the Board to order the Tenant to pay the Landlord up to \$35,000.00, plus Board filing costs, if the tenancy is terminated and the Tenant vacates the rental unit. The Divisional Court's reasons in *Horstein et al v. Royal Bank of Canada*, 2010 ONSC 3134 (Div. Ct.) (CanLII), however, permit the Board to determine that the Tenant must pay the full amount of rental arrears owed, if the Tenant wishes to void the order under section 74 of the Act.

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:**
 - \$36,106.56 if the payment is made on or before March 31, 2023. See Schedule 1 for the calculation of the amount owing.
- OR**
- \$38,115.38 if the payment is made on or before April 30, 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 30, 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 30, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord **\$33,696.00**. 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 \$66.04 per day for the use of the unit, starting March 25, 2023 and continuing 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 30, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 1, 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 April 30, 2023, then starting May 1, 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 1, 2023.

March 30, 2023
Date Issued

Harry Cho
Vice Chair, 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 1, 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.

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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	\$35,920.56
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total the Tenant must pay to continue the tenancy	\$36,106.56

B. 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	\$37,929.38
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total the Tenant must pay to continue the tenancy	\$38,115.38

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

Rent Owing To Hearing Date	\$35,496.70
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$1,985.00
Less the amount of the interest on the last month's rent deposit	- \$1.70
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00

Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlord	\$33,696.00
Plus daily compensation owing for each day of occupation starting March 25, 2023	\$66.04 (per day)

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