



Order under Section 69 Residential Tenancies Act, 2006

Citation: Starlight Canadian Residential Growth Fund v Mclean, 2023 ONLTB 28302

Date: 2023-03-28

File Number: LTB-L-042824-22

In the matter of: 404, 24 IDA ST
ST CATHARINES ON L2R3X5

Between: Starlight Canadian Residential Growth Fund Landlord

And

Biancia Sutherland Mclean Tenant

Starlight Canadian Residential Growth Fund (the 'Landlord') applied for an order to terminate the tenancy and evict Biancia Sutherland Mclean (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on February 28, 2023. The Landlord's representative, Michelle Forrester 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 \$1,644.12. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$54.05. This amount is calculated as follows: \$1,644.12 x 12, divided by 365 days.
5. The Tenant has paid \$6,098.10 to the Landlord since the application was filed.
6. The rent arrears owing to February 28, 2023 are \$7,789.26.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

Relief from Eviction

8. At the hearing the Tenant proposed a payment plan in order to preserve her tenancy. She suggested that in addition to her monthly rent, she could pay \$900.00 per month towards the arrears commencing on March 25, 2023 for nine months.

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9. The Landlord's representative did not contest to the proposed plan; however, she was not in a position to enter into a consent with the Tenant.
10. After hearing the testimony from the Tenant with respect to her circumstances, I am satisfied that there is enough for me to favour the Tenant's proposal for relief from eviction subject to a payment plan.
11. 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 Tenant shall pay to the Landlord \$7,975.26 for arrears of rent up to February 28, 2023 and costs.
2. The Tenant shall pay to the Landlord the amount set out in paragraph 1 in accordance with the following schedule:
 - a) The Tenant shall pay \$900.00 on the 25th of each month commencing on March 25, 2023 through to October 25, 2023 (8 payments);
 - b) On November 25, 2023 the Tenant shall pay \$775.26;
3. If the rent for March 2023 has not yet been paid to the Landlord, then the Tenant shall pay the rent owing for March 2023 in full on or before March 31, 2023.
4. The Tenant shall also pay to the Landlord new rent on time and in full as it comes due and owing on the 1st day of each month for the period April 1, 2023 to November 1, 2023, or until the arrears are paid in full, whichever date is earliest.
5. If the Tenant fails to make any one of the payments in accordance with this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenant to the Landlord pursuant to paragraph 1 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenant, apply to the LTB within 30 days of the Tenant's breach pursuant to section 78 of the Act for an order terminating the tenancy and

evicting the Tenant and requiring that the Tenant pay any new arrears, NSF fees and related charges that became owing after February 28, 2023.

March 28, 2023 _____ **Date Issued**

Natalie James

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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