



Order under Section 69 Residential Tenancies Act, 2006

Citation: Starlight Blackstar OPCO 2 ULC v Leckford, 2023 ONLTB 27082

Date: 2023-03-27

File Number: LTB-L-041491-22

In the matter of: 609, 2220 WESTON RD
NORTH YORK ON M9N1Y6

Between: Starlight Blackstar OPCO 2 ULC Landlord

And

Yvonne Leckford Tenant

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

The Landlord also claimed charges related to NSF cheques.

This application was heard by videoconference on February 27, 2023.

The Landlord's representative K Anderson 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 \$1,051.29. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$34.56. This amount is calculated as follows: \$1,051.29 x 12, divided by 365 days.

5. The Tenant has paid \$3,153.87 to the Landlord since the application was filed.
6. The rent arrears owing to February 28, 2023 are \$19,084.23. The Tenant does not dispute the arrears owing.
7. The Landlord is entitled to \$20.00 to reimburse the Landlord for administration charges and \$10.00 for bank fees the Landlord incurred as a result of 1 cheque given by or on behalf of the Tenant which was returned NSF.
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 \$979.91 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 \$15.97 is owing to the Tenant for the period from January 1, 2021 to February 27, 2023.

Section 83

11. Section 83 requires that I consider all the circumstances, including the Tenant's and the Landlord's situations to determine if it would be appropriate to grant section 83 relief from eviction.
12. The Tenant seeks a payment plan or in the alternative, a delayed termination date of 6-7 months. The Tenant is a long-term tenant and lives alone. The Tenant indicated she lost her job in 2019 and could not locate employment for some time thereafter. In addition, the Tenant indicated she became ill in 2020, requiring surgeries in 2021. At the hearing, the Tenant acknowledged having significant monthly expenses, in addition to her rent obligations. The Tenant stated she is currently earning \$3500/month and expects to earn more in the coming months. Although not a requirement in proving monthly income, there was no documentary evidence, or other independent verification evidence tendered in support of such income, or the Tenant's purported ability to make regular – or increased - payments towards the rent and arrears.
13. The Landlord's representative submitted there should be no further delay beyond April 30, 2023 since there have been no rent payments made since November 2022, the current rent arrears are significant and the Tenant has not demonstrated an ability or willingness to make both her existing expenses and rent. The Landlord submitted the tenancy is not sustainable.
14. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenant. Given the Tenant's unwillingness and/or inability to make any rent payments over a prolonged period of time, I find it would be unfair to deny eviction. Nonetheless, given all the circumstances noted at the hearing, including the Tenant's personal circumstances

and challenges in finding alternative accommodations, I find that it would not be unfair to postpone the eviction until April 30, 2023 pursuant to subsection 83(1)(b) 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:**
 - \$20,351.52 if the payment is made on or before March 31, 2023. See Schedule 1 for the calculation of the amount owing.
- OR**
- \$21,402.81 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 \$18,186.18. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application and unpaid NSF charges. 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 \$34.56 per day for the use of the unit starting February 28, 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 30, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 1, 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 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 27, 2023

Date Issued

Peter Nicholson

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 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.

*Note: When the Board directs payment-out, the Canadian Imperial Bank of Commerce will issue a cheque to the appropriate party named in this notice. The cheque will be in the amount directed plus any interest accrued up to the date of the notice

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	\$23,289.39
Application Filing Fee	\$186.00
NSF Charges	\$30.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$3,153.87
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	\$20,351.52

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	\$24,340.68
Application Filing Fee	\$186.00
NSF Charges	\$30.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$3,153.87
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	\$21,402.81

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

Rent Owing To Hearing Date	\$22,119.93
Application Filing Fee	\$186.00
NSF Charges	\$30.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$3,153.87
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	- \$979.91
Less the amount of the interest on the last month's rent deposit	- \$15.97

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	\$18,186.18
Plus daily compensation owing for each day of occupation starting February 28, 2023	\$34.56 (per day)