



Order under Section 69 Residential Tenancies Act, 2006

Citation: Sasu v Laflamme, 2023 ONLTB 26476

Date: 2023-03-24

File Number: LTB-L-042540-22

In the matter of: 31 CRAIGLEE DR
SCARBOROUGH ON M1N2L9

Between: Cornelia Lacramioara Sasu and Valentin Landlord
Gabriel Sasu

And

Daniel Miller and Jessie Laflamme Tenants

Cornelia Lacramioara Sasu and Valentin Gabriel Sasu (the 'Landlord') applied for an order to terminate the tenancy and evict Daniel Miller and Jessie Laflamme (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 Valentin Gabriel Sasu, their Representative Wendy Jane Burgess and the Tenant Jessie Laflamme attended the hearing.

Determinations:

Adjournment Request

1. The Tenant Jessie Laflamme ('J.L.') requested an adjournment to compiled and file evidence relating to an agreement she had with the Landlord that rent would not be paid in exchange for work around the property and to file evidence regarding tenant issues pursuant to section 82 of the *Residential Tenancies Act, 2006* ('the Act').
2. The Landlord was opposed to the adjournment request.
3. Section 183 of the Act directs the Board to adopt the most expeditious method of determining the questions arising in a proceeding that affords to all persons directly

affected by the proceeding an adequate opportunity to know the issues and to be heard on the matter.

4. I denied the adjournment request because I was not satisfied that the Tenants did not have time to prepare for the hearing. The N4 notice of termination was served in July 2022 and since that time the Tenants have been on notice that a hearing is likely pending with the Board. Additionally, the notice of hearing was mailed as of February 15, 2023. I will also note that denying the adjournment does not prohibit the Tenants from filing their own tenant application.

The Application

5. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Nonpayment of Rent (N4 Notice). The Tenants 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.
6. As of the hearing date, the Tenants were still in possession of the rental unit.
7. The lawful rent is \$2,800.00. It is due on the 1st day of each month.
8. Based on the Monthly rent, the daily rent/compensation is \$92.05. This amount is calculated as follows: \$2,800.00 x 12, divided by 365 days.
9. The Tenants have not made any payments since the application was filed.
10. The Tenant J.L testified that she made an agreement with the Landlord for the Tenants to do maintenance work around the house in exchange for not paying rent. J.L testified that this was an open-ended agreement in which anytime work was done they would contact the Landlord to work out the appropriate rent reduction. J.L was unable to provide specifics about what rent had been reduced or what the amount of outstanding arrears is.
11. The Landlord Valentin Gabriel Sasu testified that May 2022 rent was waived in exchange for work the Tenants were to do in the backyard. However, the Landlord said there was no open-ended agreement for a rent reduction for any maintenance work done by the Tenants. Text messages were entered into evidence between the parties in which they clearly agree that yard work will be done by the Tenants in exchange for May 2022's rent. In those text messages there is no other agreement for rent reduction or ongoing agreement for rent reduction reached. There is a discussion of painting and plaster work being done, but nothing is formalized in terms of reimbursement.
12. I find on a balance of probabilities that the only formalized agreement between the parties for rent reduction was for a waiver of May 2022's rent in exchange for yard work. I make this finding based upon the testimony of the Landlord and the text messages between the parties. I have a credibility and reliability concern about J.L's testimony that there was an open ended agreement for rent reduction for any work done by the Tenants. This is because this agreement is not in writing, and the J.L was unable to say exactly what rent reduction was owed to her. Additionally, the Tenants have paid no rent since July 2022. If

the Tenants had been paying rent, minus a few hundred dollars here and there, I would be more likely to find that the Tenants were not paying rent in accordance with an agreement for reimbursement for maintenance work. However, the Tenants have paid zero rent in 8 months.

13. The rent arrears owing to February 28, 2023 are \$22,400.00.
14. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
15. The Landlord collected a rent deposit of \$2,800.00 from the Tenants 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.
16. Interest on the rent deposit, in the amount of \$37.55 is owing to the Tenants for the period from March 22, 2022 to February 28, 2023.
17. 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 8, 2023 pursuant to subsection 83(1)(b) of the Act. This is because there are two children living in the rental unit and the postponement will provide the Tenants with time to either pay the arrears or find new living arrangements. I have declined to postpone the eviction any further than April 8, 2023 because of the large amount of outstanding arrears.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants void this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$25,386.00 if the payment is made on or before March 31, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 - \$28,186.00 if the payment is made on or before April 8, 2023. See Schedule 1 for the calculation of the amount owing.
3. The Tenants may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenants have paid the full amount owing as ordered plus any additional rent that became due after April 8, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.
4. **If the Tenants do not pay the amount required to void this order the Tenants must move out of the rental unit on or before April 8, 2023.**

5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$19,748.45. 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 Tenants shall also pay the Landlord compensation of \$92.05 per day for the use of the unit starting March 1, 2023 until the date the Tenants moves out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before April 4, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 5, 2023 at 5.00% annually on the balance outstanding.
8. If the unit is not vacated on or before April 8, 2023, then starting April 9, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
9. 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 9, 2023.

March 24, 2023

Date Issued

Amanda Kovats

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 9, 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	\$25,200.00
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
Total the Tenant must pay to continue the tenancy	\$25,386.00

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before April 8, 2023

Rent Owing To April 30, 2023	\$28,000.00
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
Total the Tenant must pay to continue the tenancy	\$28,186.00

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

Rent Owing To Hearing Date	\$22,400.00
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	- \$2,800.00
Less the amount of the interest on the last month's rent deposit	- \$37.55
Total amount owing to the Landlord	\$19,748.45
Plus daily compensation owing for each day of occupation starting March 1, 2023	\$92.05 (per day)