



Order under Section 69 Residential Tenancies Act, 2006

Citation: Hazelview Property Services Inc. v Kiss, 2023 ONLTB 26196

Date: 2023-03-21

File Number: LTB-L-040773-22

In the matter of: 916-200 Dufferin Street Toronto,
ON M6K 1Z4

Between: Hazelview Property Services Inc.

Landlord

And

Anita Kiss Tenants Istvan Kiss

Hazelview Property Services Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Anita Kiss and Istvan Kiss (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

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

The Landlord's Legal Representative Sean Beard and the Tenants attended the hearing.

Determinations:

1. 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.
2. As of the hearing date, the Tenants were still in possession of the rental unit.
3. The lawful rent is \$2,402.59. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$78.99. This amount is calculated as follows: \$2,402.59 x 12, divided by 365 days.
5. The Tenants have not made any payments since the application was filed.
6. The rent arrears owing to February 28, 2023 are \$28,410.18.

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 \$2,344.00 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.
9. Interest on the rent deposit, in the amount of \$40.17 is owing to the Tenants for the period from December 15, 2021 to February 27, 2023.
10. The Tenant Istvan Kiss acknowledged the arrears and testified that he and his wife and son moved to Canada from Hungary however, his wife and son moved back.
11. He testified that he is unemployed and has no source of income as all he possesses is a refugee ID. The Tenant was unable suggest a payment plan and was not sure what to do about the arrears.
12. The Tenant requested additional time to find a new unit and requested until June 1, 2023 to do so. Based on the Tenants' lack of payments towards the arrears and the high balance, I find that this request is unreasonable. The tenancy will be terminated as of April 1, 2023.
13. 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 1, 2023 pursuant to subsection 83(1)(b) of the Act.

It is ordered that:

14. The tenancy between the Landlord and the Tenants is terminated unless the Tenants void this order.
15. **The Tenants may void this order and continue the tenancy by paying to the Landlord:**
 1. \$30,998.77 if the payment is made on or before March 31, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 2. \$33,401.36 if the payment is made on or before April 1, 2023. See Schedule 1 for the calculation of the amount owing.
16. The Tenants may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenants has paid the full amount owing as ordered plus any additional rent that became due after April 1, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.
17. **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 1, 2023.**

- 18. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$25,942.15. 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 Tenants. See Schedule 1 for the calculation of the amount owing.
- 19. The Tenants shall also pay the Landlord compensation of \$78.99 per day for the use of the unit starting February 28, 2023 until the date the Tenants move out of the unit.
- 20. If the Tenants do not pay the Landlord the full amount owing on or before April 1, 2023, the Tenants will start to owe interest. This will be simple interest calculated from April 2, 2023 at 5.00% annually on the balance outstanding.
- 21. The Landlord or the Tenants shall pay to the other any sum of money that is owed as a result of this order.
- 22. If the unit is not vacated on or before April 1, 2023, then starting April 2, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
- 23. 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 2, 2023.

March 21, 2023 _____ **Date Issued**

Jagger Benham

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 2, 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 Tenants 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	\$30,812.77
Application Filing Fee	\$186.00
Total the Tenants must pay to continue the tenancy	\$30,998.77

B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before April 1, 2023

Rent Owing To April 30, 2023	\$33,215.36
Application Filing Fee	\$186.00
Total the Tenants must pay to continue the tenancy	\$33,401.36

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

Rent Owing To Hearing Date	\$28,140.32
Application Filing Fee	\$186.00
Less the amount of the interest on the last month's rent deposit	- \$40.17
Total amount owing to the Landlord	\$25,942.15
Plus daily compensation owing for each day of occupation starting February 28, 2023	\$78.99 (per day)