



Order under Section 69 Residential Tenancies Act, 2006

Citation: TORONTO COMMUNITY HOUSING CORP v McCarthy, 2023 ONLTB 26584

Date: 2023-03-20

File Number: LTB-L-041312-22

In the matter of: 208, 93 EDGEWOOD AVE TORONTO
ON M4L3G8

Between: Toronto Community Housing Corp Landlord

And

Maxine McCarthy Tenant

TORONTO COMMUNITY HOUSING CORP (the 'Landlord') applied for an order to terminate the tenancy and evict Maxine McCarthy (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 Natasha Johnson and the Tenant Maxine McCarthy attended the hearing.

Preliminary Issue:

1. The Tenant requested an adjournment to seek further legal advice and submit the proper documentation to the Landlord for their RGI unit.
2. The Landlord contested the adjournment.
3. The Landlord submitted the Tenant had enough time to seek out legal advice and submit documentation prior to their hearing.
4. The Landlord's N4 was given to the Tenant March 17, 2022 as confirmed with the Certificate of Service and includes rent as far back as March 2020. The Tenant has been aware of the Landlord's claim since that time.
5. Having considered both the Tenant's and the Landlord's submissions, I find that the Tenant had significant time to seek legal advice and to work with the Housing Provider to

attempt to resolve the issues prior to the hearing date. I find that the Tenant did not take reasonable action within the time they had to seek legal advice, they did not contact the Landlord in advance to request an adjournment and did not seek to have the hearing rescheduled under the LTB's processes.

6. In consideration of the prejudice to the parties and to resolve the matter in a reasonable amount of time, the Tenant's adjournment request was denied and the hearing proceeded.

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 \$453.00. It is due on the first day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$14.89. This amount is calculated as follows: \$453.00 x 12, divided by 365 days.
5. The Tenant has paid \$2,200.00 to the Landlord since the application was filed.
6. The rent arrears owing to February 28, 2023 are \$3,116.00.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. There is no last month's rent deposit.

Relief From Eviction

9. The Landlord's representative requested that the tenancy be terminated April 30, 2023 which is 60 days from the date of the hearing.
10. The Tenant requested "as much time as possible" as they are in the 21st year of their tenancy. The Tenant submitted they need time to file their income taxes for the past two years, submit the proper paperwork and documentation to their Landlord and work with the Landlord to find a solution for their RGI unit once all documentation is submitted.
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 postpone the eviction until **May 30, 2023** pursuant to subsection 83(1)(b) of the Act, which is 63 days from the date of the Order and 90 days from the day of the hearing. I find this amount of time to be reasonable as it will provide the Tenant with the opportunity to take action to preserve their tenancy and the Landlord has agreed to an extended termination date.

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:**
 - \$6,926.00 if the payment is made on or before March 31, 2023. See Schedule 1 for the calculation of the amount owing.
 - OR**
 - \$7,379.00 if the payment is made on or before April 30, 2023. See Schedule 1 for the calculation of the amount owing.
 - OR**
 - \$7,832.00 if the payment is made on or before May 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 May 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 May 30, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$6,473.00. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$14.89 per day for the use of the unit starting March 1, 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 May 30, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 31, 2023 at 5.00% annually on the balance outstanding.
8. If the unit is not vacated on or before May 30, 2023, then starting May 31, 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 May 31, 2023.

March 27, 2023

Date Issued

André-Paul Baillargeon-Smith

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 20, 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	\$8,940.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$2,200.00
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	\$6,926.00

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before April 30, 2023

Rent Owing To April 30, 2023	\$9,393.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$2,200.00
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	\$7,379.00

C. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before May 19, 2023

Rent Owing To May 31, 2023	\$9,846.00
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Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$2,200.00
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	\$7,832.00

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

Rent Owing To Hearing Date	\$8,487.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$2,200.00
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	- \$
Less the amount of the interest on the last month's rent deposit	- \$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 amount owing to the Landlord	\$6,473.00
Plus daily compensation owing for each day of occupation starting March 1, 2023	\$14.89 (per day)