



Order under Section 69 Residential Tenancies Act, 2006

Citation: sangh v Riberis, 2023 ONLTB 26193

Date: 2023-03-17

File Number: LTB-L-044459-22

In the matter of: 14507 MCLAUGHLIN RD
Caledon ON L7C2B4

Between: sangh and Surinder Kang Landlords

And

Darryl a. Caines and Suzana Riberis Tenants

sangh and Surinder Kang (the 'Landlords') applied for an order to terminate the tenancy and evict Darryl a. Caines and Suzana Riberis (the 'Tenants') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on March 1, 2023. The Landlords, representative Rajdeep Sangha, and the Tenants, 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 \$2,400.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$78.90. This amount is calculated as follows: \$2,400.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to March 31, 2023 are \$39,714.70.
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 \$2,400.00 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.
9. Interest on the rent deposit, in the amount of \$33.70 is owing to the Tenant for the period from August 9, 2022 to March 1, 2023.
10. The Tenants moved into the rental home in May 2021. In the 22 months since the Tenants moved into the home, they have not paid rent for 16 of those months. At the hearing the Tenants claimed they paid with cash. No evidence was submitted that would support this testimony.
11. The Landlord provided text messages showing that the Landlord has contacted the Tenants on numerous occasions about unpaid rent as well as unpaid hydro bills. The Landlord testified the total hydro cost the Landlords paid that were the Tenants' responsibility was \$4,000.00 before the hydro was transferred into the Tenants' name. It was also the Landlords' position that the Tenants stopped communicating with them several months ago. Based on the text messages submitted as evidence, and the fact the Tenants did not dispute this, I find there has been no communication from the Tenants for several months.
12. Prior to the hearing the Tenants submitted several photographs taken with their phone that appear to demonstrate issues the Tenants intended to raise under section 82 of the *Residential Tenancies Act*. The quality of the photographs made it difficult to determine what evidence the Tenants intended to raise or rely on at the hearing. The information was disorganized and unclear.
13. The Landlord filed this application with the Board in August 2022, some seven months before the matter was scheduled to be heard. The Tenants have paid no rent since the application was filed with the Board. Considering the fact that the amount the Tenants owe the Landlords is beyond the Board's monetary jurisdiction of \$35,000.00, the fact it has been 16 months since rent was paid, the fact the Tenants failed to pay \$4,000.00 in hydro charges, the fact that the Landlords have waited several months for the application to be heard, and the fact the Tenants have not communicated with the Landlord, meaning the Landlord could not reasonably have known about issues the Tenants intended to raise at the hearing, I find the prejudice to the Landlords to adjourn this application would be unfair in all the circumstances. The Tenants maintain the right to file an application with the Board to determine if the Landlords are in breach of their obligations. Under the circumstances, if a landlord is unaware of issues that should be addressed, a landlord cannot respond to those issues.
14. This order limits the amount the Board has ordered to the Board's monetary jurisdiction of \$35,000.00.
15. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) 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:**
 - \$35,000.00 if the payment is made on or before March 28, 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 March 28, 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 March 28, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$34,909.20. 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. If the Tenant does not pay the Landlord the full amount owing on or before March 28, 2023, the Tenant will start to owe interest. This will be simple interest calculated from March 29, 2023 at 5.00% annually on the balance outstanding.
7. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
8. If the unit is not vacated on or before March 28, 2023, then starting March 29, 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 March 29, 2023.

March 17, 2023

Date Issued

Greg Joy

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 September 29, 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 28, 2023

Rent Owing To March 31, 2023	\$37,900.00
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 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	\$38,086.00

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

Rent Owing To Hearing Date	\$37,156.90
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	- \$2,400.00
Less the amount of the interest on the last month's rent deposit	- \$33.70
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	\$34,909.20
Plus daily compensation owing for each day of occupation starting March 2, 2023	\$78.90 (per day)