



**Order under Section 69
Residential Tenancies Act, 2006**

Citation: Sterling Silver Development Corporation v Derka, 2023 ONLTB 25552

Date: 2023-03-16

File Number: LTB-L-044418-22

In the matter of: 1714, 1200 YORK MILLS RD DON
MILLS ON M3A1X9

Between: Sterling Silver Development Corporation Landlord

And

Adriatik Derka Tenant

Sterling Silver Development Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Adriatik Derka (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 March 1, 2023. The Landlord's legal representative Howard Levenson 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 \$1,391.75. It is due on the 1st day of each month.
4. The Tenant has paid \$7,115.18 to the Landlord since the application was filed.
5. The rent arrears owing to March 31, 2023 are \$3,849.12.

6. The Landlord is entitled to \$80.00 to reimburse the Landlord for administration charges and \$20.00 for bank fees the Landlord incurred as a result of 1 cheque given by or on behalf of the Tenant which was returned NSF.
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 \$1,341.71 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.

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Relief from eviction:

9. 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 grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.
10. The Tenant testified that he fell into arrears during the summer months of 2022 as he used his savings to sponsor his wife and two-year-old child to immigrate to Canada. The Tenant stated that he was starting a new job on March 6, 2023 and proposed a repayment plan in which he would pay his rent on time and an additional \$400.00 per month towards the arrears. The Landlord opposed this repayment proposal.
11. I find it would not be unfair to grant the Tenants repayment plan. The Tenant has made a substantial number of payments since the application was filed and his reason for falling into arrears was to assist his immediate family during a difficult period.
12. The Tenant also testified that he paid his March 2023 rent on the hearing date, but this amount could not be confirmed by the Landlord. As such, this payment will be incorporated into the payment plan below.

It is ordered that:

1. The Tenant shall pay to the Landlord \$4,175.12 for the amount for arrears of rent up to March 31, 2023 and costs.
2. The Tenant shall pay to the Landlord the amount set out in paragraph 1 in accordance with the following schedule:
 - a) \$1,391.75 on or before March 1, 2023 (March 2023 rent)
 - b) \$400.00 on or before the first day of each month commencing April 1, 2023 and continuing through to September 1, 2023.

c) \$383.37 on or before October 1, 2023.

3. The Tenant shall also pay to the Landlord new rent on time and in full as it comes due and owing for the period of April 1, 2023 to October 1, 2023, or until the arrears are paid in full, whichever date is earliest.
4. If the Tenant fails to make any one of the payments in accordance with this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenant to the Landlord pursuant to paragraph 1 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenant, apply to the LTB within 30 days of the Tenant's breach pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenant and requiring that the Tenant pay any new arrears, NSF fees and related charges that became owing after March 31, 2023.

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March 16, 2023 _____ **Date Issued**
Fabio Quattrociochi

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.