



Order under Section 69 Residential Tenancies Act, 2006

Citation: Petridis v Gatt, 2023 ONLTB 25486

Date: 2023-03-15

File Number: LTB-L-034335-22

In the matter of: BASEMENT, 44 GULLY DR
SCARBOROUGH ON M1K4W4

Between: Antony Petridis and Penelopi Petridis Landlords

And

John Gatt Tenant

Antony Petridis and Penelopi Petridis (the 'Landlords') applied for an order to terminate the tenancy and evict John Gatt (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on February 1, 2023.

The Landlord, A. Petridis, the Landlords' legal representative, T. Patchamuttu, and the Tenant attended the hearing. The Tenant was assisted by his daughter, T. Littlejohn.

Determinations:

1. The Landlords served the Tenant with a valid Notice to End Tenancy Early for Nonpayment 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 \$900.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$29.59. This amount is calculated as follows: \$900.00 x 12, divided by 365 days.

5. The Tenant has not paid any rent to the Landlords since the application was filed. However, the Landlords served the Tenant with an N12 notice of termination, and they waived the rent that was due for July 2022 as compensation due pursuant to subsection 48.1 of the *Residential Tenancies Act, 2006* (the 'Act').
6. The rent arrears owing to February 28, 2023 are \$8,100.00.
7. The Landlords 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.
9. The Tenant said that he was unable to pay the rent, and he was unable to vacate the rental unit because he could not work due to a disability for which he was awaiting ODSP payments. He said that he began receiving ODSP three months ago, and he wants to remain in the rental unit. The Tenant said that he is now in a position to pay \$2,200.00 immediately, and he could then pay \$1,100.00 per month going forward. He said that he receives \$1,228.00 ODSP per month.
10. The Tenant said that he has looked for another place to live, but he cannot find anything suitable within his budget.
11. The Landlord said that he believes the Tenant has been receiving ODSP for longer than 3 months. He said that the Tenant stopped paying the rent as soon as he was served with the N12 notice of termination, and the Tenant told him that he did not have to leave, and he would not have to pay rent.
12. I have considered all of the disclosed circumstances above in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and I find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The Tenant did not present any documentary evidence of his former or current income, and his testimony did not support an ability to pay \$1,100.00 per month going forward. He has not made any payment at all towards the rent for at least 8 months, and he had no explanation for why he had not paid anything at all since he started receiving his ODSP payment. The Tenant just stopped paying any rent as soon as he was served with the Landlords' N12 notice of termination, and the landlord and tenant relationship broke down after that time. The Tenant has now had over 8 months of free rent, and it is prejudicial for the tenancy to continue any longer. Consequently, I find that the tenancy is no longer viable as there is no credible prospect of the Landlords receiving the rent in full and on time going forward.

It is ordered that:

1. The tenancy between the Landlords 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 Landlords or to the LTB in trust:**

- \$9,186.00 if the payment is made on or before March 26, 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 26, 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 26, 2023**
 5. If the Tenant does not void the order, the Tenant shall pay to the Landlords \$7,415.59. 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 Landlords compensation of \$29.59 per day for the use of the unit starting February 2, 2023 until the date the Tenant moves out of the unit.
 7. If the Tenant does not pay the Landlords the full amount owing on or before March 26, 2023, the Tenant will start to owe interest. This will be simple interest calculated from March 27, 2023 at 5.00% annually on the balance outstanding.
 8. The Landlords or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
 9. If the unit is not vacated on or before March 26, 2023, then starting March 27, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
 10. 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 27, 2023.

2023 ONLTB 25486 (CanLI)

March 15, 2023 _____ **Date Issued**

Nancy Morris

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 27, 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 26, 2023**

Rent Owing To March 31, 2023	\$9,900.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlords since the application was filed	- \$900.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlords owe 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	\$9,186.00

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

Rent Owing To Hearing Date	\$8,129.59
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlords since the application was filed	- \$900.00
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 Landlords owe 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 Landlords	\$7,415.59
Plus daily compensation owing for each day of occupation starting February 2, 2023	\$29.59 (per day)