



Order under Section 69 Residential Tenancies Act, 2006

Citation: Khan v Ciccarelli, 2023 ONLTB 25782

Date: 2023-03-14

File Number: LTB-L-046673-22

In the matter of: 47 EDENROCK DR
STONEY CREEK ON L8E0G6

Between: Mohammad Razi Khan Landlord

And

Adrian Ciccarelli Tenants Krystel Manalili

Mohammad Razi Khan (the 'Landlord') applied for an order to terminate the tenancy and evict Adrian Ciccarelli and Krystel Manalili (the 'Tenants') because the Tenants did not pay the rent that the Tenants owes.

This application was heard by videoconference on March 7, 2023.

The Landlord's Representative, Moezzam Alvi and the Tenant, Adrian Ciccarelli 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. Although, the Tenant claimed June 2022 rent charges were paid inferring the N4 Notice was defective, he showed only confirmation of payment through etransfer for April and May 2022 rent charges which is not claimed on the N4 nor the L1 application. I find the N4 Notice is a valid notice.
2. As of the hearing date, the Tenants was still in possession of the rental unit.
3. The lawful rent is \$2,350.00. It is due on the first day of each month.

4. Based on the Monthly rent, the daily rent/compensation is \$77.26. This amount is calculated as follows: \$2,350.00 x 12, divided by 365 days.
5. The Tenants has not made any payments since the application was filed.
6. The rent arrears owing to March 31, 2023 are \$23,500.00.
7. The Tenant argued the Landlord did not provide a legal address which the Landlord refuted. The Tenant did not challenge the Landlord's evidence that it was disclosed to him via another Notice given to him. In any event, despite the conflicting evidence, the Landlord's address was given to the Tenant at the hearing and section 12(4) of the Act is no longer applicable.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. There is no last month's rent deposit. The Tenant challenged the Landlord's evidence on point but did not provide any proof of payment. The Tenants paid 1 year of rent charges upfront when the tenancy started which has been applied to rent charges from April 1, 2021 to March 1, 2022 which is not disputed. The Landlord is not holding any deposit for the last month rent deposit.
10. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenants and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The Tenants haven't made any payments towards rent to the Landlord for 10 months and gave no explanation for non-payment.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants voids this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$23,686.00 if the payment is made on or before March 25, 2023. See Schedule 1 for the calculation of the amount owing.
3. 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 March 25, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.
4. **If the Tenants does not pay the amount required to void this order the Tenants must move out of the rental unit on or before March 25, 2023**

5. If the Tenants does not void the order, the Tenants shall pay to the Landlord \$21,876.82. 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 Tenants shall also pay the Landlord compensation of \$77.26 per day for the use of the unit starting March 8, 2023 until the date the Tenants moves out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before March 25, 2023, the Tenants will start to owe interest. This will be simple interest calculated from March 26, 2023 at 5.00% annually on the balance outstanding.
8. If the unit is not vacated on or before March 25, 2023, then starting March 26, 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 26, 2023.

March 14, 2023

Date Issued

Sandra Macchione

Member, Landlord and Tenants 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 26, 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 25, 2023

| | |
|---|--------------------|
| Rent Owing To March 31, 2023 | \$23,500.00 |
| Application Filing Fee | \$186.00 |
| NSF Charges | \$0.00 |
| Less the amount the Tenants paid to the Landlord since the application was filed | - \$0.00 |
| Less the amount the Tenants paid into the LTB since the application was filed | - \$0.00 |
| Less the amount the Landlord owes the Tenants for an{abatement/rebate} | - \$0.00 |
| Less the amount of the credit that the Tenants is entitled to | - \$0.00 |
| Total the Tenants must pay to continue the tenancy | \$23,686.00 |

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

| | |
|---|----------------------|
| Rent Owing To Hearing Date | \$21,690.82 |
| Application Filing Fee | \$186.00 |
| NSF Charges | \$0.00 |
| Less the amount the Tenants paid to the Landlord since the application was filed | - \$0.00 |
| Less the amount the Tenants 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 Tenants for an {abatement/rebate} | - \$0.00 |
| Less the amount of the credit that the Tenants is entitled to | - \$0.00 |
| Total amount owing to the Landlord | \$21,876.82 |
| Plus daily compensation owing for each day of occupation starting March 8, 2023 | \$77.26 (per day) |