



Order under Section 69 Residential Tenancies Act, 2006

Citation: Wong v Basnicki, 2023 ONLTB 25500

Date: 2023-03-14

File Number: LTB-L-043173-22

In the matter of: 146 COUNTRYMAN RD
EAST GWILLIMBURY ON L9N0N8

Between: Yu Ying Wong Landlord

And

Kelly Anne Marie Basnicki and Robert Wayne Walker Tenants

Yu Ying Wong (the 'Landlord') applied for an order to terminate the tenancy and evict Kelly Anne Marie Basnicki and Robert Wayne Walker (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

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

The Landlord and the Tenant, K. Basnicki, attended the hearing. The Landlord was assisted with translation by S. Wu.

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.
2. As of the hearing date, the Tenants were still in possession of the rental unit.
3. The Tenant, K. Basnicki (KB), said that the other Tenant, R. Walker had moved out of the rental unit months ago.
4. The lawful rent is \$2,900.00. It is due on the 1st day of each month.

5. Based on the Monthly rent, the daily rent/compensation is \$95.34. This amount is calculated as follows: \$2,900.00 x 12, divided by 365 days.
6. The Tenants have not made any payments since the application was filed.
7. The rent arrears owing to March 31, 2023 are \$26,100.00.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlord collected a rent deposit of \$2,900.00 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.
10. Interest on the rent deposit, in the amount of \$48.27 is owing to the Tenant for the period from July 2, 2022 to March 1, 2023.
11. The Tenant, KB, said that she withheld rent because there were a number of maintenance issues. She said that the Landlord had promised to compensate her for the maintenance issues, but they had not done so.
12. KB also said that she is in the process of moving out, and she would vacate the rental unit on or before March 3, 2023. The Landlord agreed to waive five months of rent, or \$14,500.00.
13. At the hearing the parties consented to the following order. I was satisfied that the parties understood the consequences of their consent.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of March 3, 2023.
2. The Tenant shall pay to the Landlord \$6,223.75. This amount includes rent arrears owing up to March 3, 2023, and the cost of filing the application. The 5 months' waived rent, 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.
3. The Tenant shall also pay the Landlord compensation of \$95.34 per day for the use of the unit starting March 4, 2023 until the date the Tenant moves out of the unit.
4. If the Tenant does not pay the Landlord the full amount owing on or before March 25, 2023, the Tenant will start to owe interest. This will be simple interest calculated from March 26, 2023 at 5.00% annually on the balance outstanding.
5. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
6. If the unit is not vacated on or before March 3, 2023, then starting March 4, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.

7. 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 4, 2023.

March 14, 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 4, 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:

Rent Owing To March 3, 2023	\$23,486.02
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	- \$2,900.00
Less the amount of the interest on the last month's rent deposit	- \$48.27
Less the amount the Landlord is waiving for an {abatement/rebate}	- \$14,500.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlord	\$6,223.75
Plus daily compensation owing for each day of occupation starting March 4, 2023	\$95.34 (per day)

2023 ONL/TB 25500 (CanLI)