



Order under Section 69 Residential Tenancies Act, 2006

Citation: Breskin v Zemblaku, 2023 ONLTB 23600

Date: 2023-03-09

File Number: LTB-L-037717-22

In the matter of: basement room, 44 SILVERVIEW DR NORTH
YORK ON M2M2B3

Between: Natalya Breskin Landlord

And

Olgert Zemblaku Tenant

Natalya Breskin (the 'Landlord') applied for an order to terminate the tenancy and evict Olgert Zemblaku (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on February 14, 2023.

The Landlord 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 \$700.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$23.01. This amount is calculated as follows: \$700.00 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 February 28, 2023 are \$7,680.00.

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 \$700.00 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 \$15.98 is owing to the Tenant for the period from September 10, 2021 to February 14, 2023.
10. The Landlord told the Board that the Tenant has made numerous promises of payment which have not been kept. The Tenant did not deny this.
11. The Landlord alleges that the Tenant told her that he's lived in the country for 20 years and knows how the system works. This was not denied by the Tenant.
12. The Tenant claimed that he has been working off and on because of COVID-19. The Landlord said that she called the company that he works at and confirmed that he has been working there since June, and that he makes enough to pay his rent. This information was not denied by the Tenant. He did say that it was his intention to pay the Landlord.
13. The Tenant says that he is expecting money from cryptocurrency trading he has done which would cover the outstanding debt to the Landlord. He says that he is just waiting for it. No reason was given for the delay.
14. The Tenant also submitted that they would like to have until the end of April since he is moving to the United States then, anyways. He repeated that it was his intention to pay the outstanding debt to the Landlord, even if he leaves.
15. The Landlord indicated that she did a recent credit check on the Tenant which indicated that he owes money to someone else, too. The Tenant denied this.
16. 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. The Tenant has been in a new job since June and has made no effort to pay off any of the arrears to the Landlord, or even to pay the current rent. The Tenant has stated that they will be receiving cryptocurrency to pay the rent. There has been no timeframe for this. The Tenant has provided no proof that this account exists. Further, the Landlord has made a number of attempts to make arrangements to allow the Tenant to catch up on their rent. The Tenant has not followed through on any of these.

It is ordered that:

1. For these reasons, 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:**
 - \$8,566.00 if the payment is made on or before March 20, 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 20, 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 20, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$6,772.16. 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. The Tenant shall also pay the Landlord compensation of \$23.01 per day for the use of the unit starting February 15, 2023 until the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlord the full amount owing on or before March 20, 2023, the Tenant will start to owe interest. This will be simple interest calculated from March 21, 2023 at 5.00% annually on the balance outstanding.
8. The Landlord 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 20, 2023, then starting March 21, 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 21, 2023.

March 9, 2023

Date Issued

William Greenberg

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 21, 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 13, 2023

Rent Owing To March 31, 2023	\$8,380.00
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	\$8,566.00

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

Rent Owing To Hearing Date	\$7,302.14
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	- \$700.00
Less the amount of the interest on the last month's rent deposit	- \$15.98
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	\$6,772.16
Plus daily compensation owing for each day of occupation starting February 15, 2023	\$23.01 (per day)