



Order under Section 87 Residential Tenancies Act, 2006

Citation: Woodram Holdings v Flood, 2023 ONLTB 22360

Date: 2023-03-06

File Number: LTB-L-038062-22

In the matter of: 6-205 DELHI ST
GUELPH ON N1E4J3

Between: Woodram Holdings Landlord

And

Taylor Flood Tenant

Woodram Holdings (the 'Landlord') applied for an order to terminate the tenancy and evict Taylor Flood (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's agent, Daniel James Clayton, attended the hearing. As of 11:48 am, the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. The Landlord served the Tenant with a Notice to End the 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. The Landlord's agent testified that the monthly rent is \$1,800.00, and the monthly rent of \$1,700.00 charged in the N4 is listed in error. The agent testified further that the Landlord would accept the \$100.00 monthly loss in arrears repayment as a result of the Landlord's error.
3. On the basis of the Landlord's uncontested evidence, I find that the lawful rent for this tenancy is \$1,800.00 monthly. The N4, with the monthly rent incorrectly listed as \$1,700.00, does not accurately set out the rent arrears owing as required pursuant to s. 59(2) of the *Residential Tenancies Act, 2006* (the 'Act'). The N4 also does not set out the correct details respecting the termination of the tenancy, and therefore does not comply with s. 43(2) of the Act. Accordingly, I find that the N4 is defective, and I am unable to consider a termination of the tenancy pursuant to s. 69(1) of the Act.
4. The Landlord's L1 application may however be considered for rent arrears only, pursuant to s. 87(1) of the Act. The Landlord's agent requested that the Board proceed with the Landlord's L1 application for rent arrears only. I granted the Landlord's request.

5. As of the hearing date, the Tenant was still in possession of the rental unit.
6. Based on the monthly rent of \$1,800.00, the daily rent/compensation is \$59.18. This amount is calculated as follows: \$1,800.00 x 12, divided by 365 days.
7. The Tenant has paid \$8,500.00 to the Landlord since the application was filed.
8. The rent arrears owing to February 28, 2023 are \$9,200.00. This total includes \$5,100.00 in rent arrears as of the date of the Landlord's L1 application, and \$4,100.00 in rent arrears accrued since the L1 application was filed. I acknowledge that the Landlord's L1 application used the incorrect monthly rent of \$1,700.00 to calculate arrears owing; however, the Landlord did not request an amendment of the L1 application, nor could I grant an amendment, given the resulting prejudice to the Tenant. Accordingly, I accept that the rent arrears, as of the date of the Landlord's application, were \$5,100.00 – as listed in the Landlord's L1 application.
9. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
10. The Landlord collected a rent deposit of \$1,800.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit, and \$39.45 in interest from the rent deposit for the period from April 1, 2022 to February 14, 2023, can only be applied to the last rental period of the tenancy if the tenancy is terminated. As provided in paragraphs 2 and 3 above, termination of the tenancy will not be considered in this application.

It is ordered that:

1. The Tenant shall pay to the Landlord \$9,386.00. This amount includes rent arrears owing of \$9,200.00 as of February 28, 2023, and \$186.00 for the cost of filing the application.
2. If the Tenant does not pay the Landlord the full amount owing on or before March 17, 2023, the Tenant will start to owe interest. This will be simple interest calculated from March 18, 2023 at 5.00% annually on the balance outstanding.

March 6, 2023

Date Issued

Frank Ebner

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.