



**Order under Section 69
Residential Tenancies Act, 2006**

Citation: SKYLINE LIVING v WOJCIK, 2023 ONLTB 22918

Date: 2023-03-03

File Number: LTB-L-071699-22
SWL-56665-21

2023 ONLTB 22918 (CanLII)

In the matter of: 207, 195 BERKSHIRE DRIVE LONDON ONTARIO
N6J3R7

Between: SKYLINE LIVING Landlord

And

ROBERT WOJCIK Tenant

SKYLINE LIVING (the 'Landlord') applied for an order to terminate the tenancy and evict ROBERT WOJCIK (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on November 17, 2022.

The Landlord's representative Terry Mederios 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 \$949.85. It is due on the 1st day of each month.

4. Based on the Monthly rent, the daily rent/compensation is \$31.23. This amount is calculated as follows: $\$949.85 \times 12$, divided by 365 days.
5. The Tenant has paid \$11,390.32 to the Landlord since the application was filed. 6. The rent arrears owing to November 17, 2022 are \$2779.44
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 \$903.89 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 \$34.74 is owing to the Tenant for the period from February 2, 2020 to February 22, 2023.

Tenant's allegation of illegal rent increase

10. At the hearing the Tenant testified that he did not get paperwork for the rent increase and continued to pay rent at \$885.86. The Landlord's representative disputed the Tenant's claim and testified that all rental units affected by the rent increase were issued a notice.
11. The Landlord provided the Board with evidence of an above guideline rent increase issued by the Board file #SWL-27056-19. The Board approved above guideline rent increases for the period of May-01-19 to April-30-20, and May 01-20 to April 30-21, and May 01-21 to April 30, 2022.
12. I determined that the rent increase was legal. The arrears that the Tenant accumulated are as a result of not paying the lawful rent in full. The Landlord's representative provided evidence that the Resident Manager attempted to communicate with the Tenant to make re-payment arrangements but the Tenant did not respond to the Resident Manager.
13. The Landlord requested a standard order (11-day eviction order). I have considered all of the disclosed circumstances in accordance with subsection 83(2ger) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to postpone the eviction until March 31, 2023 pursuant to subsection 83(1)(b) of the Act. The Tenant testified that he would find another rental unit and consider seeking assistance for the repayment of the rent, or he will find another rental unit. Postponing the eviction date will give the Tenant the opportunity to seek rent assistance and potentially preserve the tenancy.

It is ordered that:

1. 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:
 - \$4,930.71 if the payment is made on or before March 31, 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 31, 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 31, 2023
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$2,779.44. 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 \$31.23 per day for the use of the unit starting November 17, 2022 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 31, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 1, 2023 at 5.00% annually on the balance outstanding.
8. If the unit is not vacated on or before March 31, 2023, then starting April 1, 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 April 1, 2023.

March 3, 2023

Date Issued

Maria Shaw

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 October 1, 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 31, 2023

Rent Owing To March 31, 2023	\$16,135.03
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$11,390.32
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	\$4,930.71

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

Rent Owing To Hearing Date	\$14,922.39
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$11,390.32
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	- \$903.89
Less the amount of the interest on the last month's rent deposit	- \$34.74
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	\$2,779.44
Plus daily compensation owing for each day of occupation starting November 17, 2022	\$31.23 (per day)