



Order under Section 69 of the Residential Tenancies Act, 2006

Citation: Juan v Williams, 2023 ONLTB 22646

Date: March 1, 2023

File Number: LTB-L-035655-22

In the matter of: MAIN FLOOR, 1153 UNIVERSITY
AVENUE EAST, WINDSOR, ON, N9A3A5

Between: Mohammed Juan Landlord

and

Elizabeth Williams Tenant

Mohammed Juan (the 'Landlord') applied in this L1 application for an order to terminate the tenancy and evict Elizabeth Williams (the 'Tenant') because the Landlord claimed that the Tenant did not pay the rent that she owes.

This application was heard by telephone/video-conference on February 2, 2023. The Landlord's legal representative Brenell Dean attended the hearing on behalf of the Landlord. As of 10:26am (the hearing started at 9am), 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 or reschedule the hearing made by the Tenant before this hearing. As a result, the hearing proceeded with only the Landlord's evidence as allowed by section 7 of the Statutory Powers Procedure Act.

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 L1 application was filed.
2. As of the hearing date, the Tenant is still in possession of the rental unit.
3. The lawful rent is \$1,400.00 per month, due on the first (1st) day of each month and has remained unchanged since the start of the arrears claimed in the N4 Notice.
4. Based on the monthly rent the daily rent/compensation is \$46.03. This amount is calculated as follows: \$1,400.00 x 12 months, divided by 365 days.
5. The Tenant made no payments to the Landlord since the L1 application was filed but before this hearing.

2023 ONLTB 22646 (CanLII)

6. The Landlord's legal representative sought to amend the L1 application to include arrears of rent for the month of June, 2022, which was granted. After the L1 application was filed, further rent became due for the months of July 2022 through to February 2023. As of the hearing date, the total amount of rent arrears currently owing up to February 28, 2023 is \$14,000.00.
7. The Landlord incurred costs of \$186.00 for filing the L1 application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$1,400.00 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. When questioned about whether or not the Landlord had attempted to offer a repayment plan with the Tenant, the Landlord's legal representative advised that this property was managed by Home to Home Management – and they had been in contact with the Tenant around the time the N4 Notice was served, to canvas a potential repayment plan, but that the Tenant had ceased all communication at that time. I was satisfied based on this explanation that the Landlord satisfied their obligation under section 83 (6) of the Residential Tenancies Act, 2006 (the 'Act') to try to negotiate with the Tenant.
10. The Landlord's legal representative requested a standard eviction order (11 days from the order issuance date). It was submitted that the Tenant had stopped paying any rent for many months and that the Landlord requires an order for eviction and arrears. There were no circumstances known about the Tenant or why they had fallen into arrears. Based on the uncontested evidence, and having considered all the disclosed circumstances in accordance with subsection 83(2) of the Act, I find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

It is ordered that:

11. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.

Pay-and-Stay Option

12. The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:
 - \$14,186.00* if the payment is made on or before February 28, 2023 (see Schedule 1 Part A for how this amount was calculated);

OR

 - \$15,586.00** if the payment is made on or before March 10, 2023 (see Schedule 1 Part B for how this amount was calculated).
13. 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 10, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.

Pay -and-Go Option

- 14. 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 12, 2023 (standard 11 days from the issuance date of this order).
- 15. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$12,786.00***. This amount includes rent arrears owing up to the date of the hearing plus the cost of filing the application. The rent deposit was deducted from the amount owing by the Tenant (see Schedule 1 Part C for how this amount was calculated.)
- 16. The Tenant shall also pay the Landlord daily compensation of \$46.03 per day for the use of the unit starting March 1, 2023 until the date the Tenant actually moves out of the rental unit or gets evicted.
- 17. If the Tenant does not pay the Landlord the full amount owing on or before March 12, 2023, then the Tenant will start to owe interest. This will be simple interest calculated from March 13, 2023 onwards at 5.00% annually on the balance outstanding.
- 18. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
- 19. If the unit is not vacated on or before March 12, 2023, then starting March 13, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
- 20. 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 13, 2023.

15 Grosvenor Street, Ground Floor Toronto ON
M7A 2G6

Michelle Tan
Member, Landlord and Tenant Board

March 1, 2023
Date Issued

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on September 13, 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 to void the eviction order and continue the tenancy if the payment is made on or before February 28, 2023 (PAY-AND-STAY OPTION)

Rent Owing To February 28, 2023	\$14,000.00
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Total the Tenant must pay to continue the tenancy	\$14,186.00*

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before March 12, 2023

Rent Owing To March 31, 2023	\$15,400.00
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Total the Tenant must pay to continue the tenancy	\$15,586.00**

C. Amount the Tenant must pay if the tenancy is terminated (PAY AND GO OPTION)

Rent Owing At Hearing Date (up to Feb 28, 2023)	\$14,000.00
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$1,400.00
Total amount owing to the Landlord	\$12,786.00***
Plus daily compensation owing for each day of occupation starting March 1, 2023	\$46.03 (per day)