



Order under Section 69 Residential Tenancies Act, 2006

Citation: Dingsheng Property Management v Batisse, 2023 ONLTB 22384

Date: 2023-03-01

File Number: LTB-L-036545-22

In the matter of: 5-4753 Buckley Avenue
Niagara Falls, ON L2E 4A5

Between: Dingsheng Property Management Landlord

And

Crystal Batisse Tenants
Jesse Williams

Dingsheng Property Management (the 'Landlord') applied for an order to terminate the tenancy and evict Crystal Batisse and Jesse Williams (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on February 13, 2023.

Only the Landlord's Legal Representative Judith Callender attended the hearing.

As of 9:24 am, the Tenants were 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 Tenants with a valid Notice to End Tenancy Early for Non-payment 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 lawful rent is \$1,214.40. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$39.93. This amount is calculated as follows: \$1,214.40 x 12, divided by 365 days.
5. The Tenants have paid \$6,914.40 to the Landlord since the application was filed.
6. The rent arrears owing to February 28, 2023 are \$3,722.40.
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 \$1,200.00 from the Tenants 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 \$43.25 is owing to the Tenants for the period from February 28, 2021 to February 13, 2023.

Section 83 Consideration and Payment Plan Proposal

10. The Landlord's Legal Representative submitted that the Landlord and the Tenants had come to an agreement regarding a payment plan however the Tenants were not in attendance at the hearing to confirm its details.
11. Based on the evidence of the Landlord's Legal Representative, I am satisfied that the parties wish to maintain the tenancy on the basis of the agreed upon terms.
12. 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 not be unfair to grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.

It is ordered that:

13. The tenancy between the Landlord and the Tenants continues if the Tenants meet the conditions set out below.
14. The Tenants shall pay to the Landlord \$3,908.40 for arrears of rent owing up to February 28, 2023.
15. The Tenants shall pay to the Landlord the amount set out in paragraph 14 in accordance with the following schedule:
 - a) \$800.00 on or before February 9, 2023
 - b) \$800.00 on or before March 9, 2023
 - c) \$800.00 on or before April 6, 2023
 - d) \$800.00 on or before May 4, 2023
 - e) \$708.40 on or before June 1, 2023
16. The Tenants shall also pay to the Landlord new rent on time and in full as it comes due and owing for the period starting March 1, 2023, until June 1, 2024, or until the arrears are paid in full, whichever date is earliest.
17. If the Tenants fails to comply with the conditions set out in paragraphs 15 and 16 of this order, the Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenants. The Landlord must make the application within 30 days of a breach of a condition. This application is made to the LTB without notice to the Tenants.

March 1, 2023
Date Issued

Jagger Benham
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.