



Order under Section 69 Residential Tenancies Act, 2006

Citation: Starlight Canadian Residential Growth Fund v Seeds, 2023 ONLTB 21929

Date: 2023-02-28

File Number: LTB-L-039213-22

In the matter of: 603, 131 NOTCH HILL RD
KINGSTON ON K7M2X4

Between: Starlight Canadian Residential Growth Fund Landlord

And

Austin Seeds Tenants
Keefer Aris
Liam Mackenzie

Starlight Canadian Residential Growth Fund (the 'Landlord') applied for an order to terminate the tenancy and evict Austin Seeds, Keefer Aris and Liam Mackenzie (the 'Tenants') because the Tenants did not pay the rent that the Tenants owes.

This application was heard by videoconference on February 15, 2023.

Only the Landlord's Legal Representative Sophia Olivieri attended the hearing.

As of 9:39 a.m., 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. Since the Tenants did not attend and the Landlord was prepared to proceed, the matter proceeded by way of an uncontested hearing pursuant to section 7 of the *Statutory Powers Procedure Act*, R.S.O. 1990.

Determinations:

1. At the hearing the Landlord's Legal Representative relied on oral submissions and referred to documents to support their application.
2. 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.
3. As of the hearing date, the Tenants were still in possession of the rental unit.
4. The lawful rent was \$2,055.00 and increased to \$2,079.64. It is due on the 1st day of each month.
5. Based on the Monthly rent, the daily rent/compensation is \$68.37. This amount is calculated as follows: \$2,079.64 x 12, divided by 365 days.

6. The Tenants have paid \$16,538.56 to the Landlord since the application was filed.
7. The rent arrears owing to February 28, 2023 are \$2,292.64.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlord collected a rent deposit of \$2,118.00 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.
10. Interest on the rent deposit, in the amount of \$6.67 is owing to the Tenants for the period from January 1, 2023 to February 15, 2023.
11. The Landlord submitted an N9 Notice signed by the Tenant Austin Seeds. The termination date on this notice is February 28, 2023. The Landlord sought a termination date in keeping with the N9 Notice signed by Mr. Seeds. The Landlord submitted they had not communicated with the other named Tenants. The other named Tenants did not sign the N9 Notice and none of the Tenants appeared at the hearing to confirm they all intended to vacate the rental unit on February 28, 2023.
12. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including whether the Landlord attempted to negotiate a payment agreement with the Tenants. The Landlord submitted they had discussions with the Tenant Austin Seeds who is the main contact in this tenancy. Mr. Seeds assured the Landlord that any rent arrears would be paid. I asked the Landlord if they were aware of any circumstances the Tenants may be experiencing that would make eviction unfair and they were aware of none. I find it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants void this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$2,478.64 if the payment is made on or before February 28, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 - \$4,558.28 if the payment is made on or before March 11, 2023. See Schedule 1 for the calculation of the amount owing.
3. The Tenants may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenants have paid the full amount owing as ordered plus any additional rent that became due after March 11, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.
4. **If the Tenants do not pay the amount required to void this order the Tenants must move out of the rental unit on or before March 11, 2023**

5. As of the date of the hearing, the amount of the rent deposit and interest the Landlord owes on the rent deposit exceeds the arrears of rent, compensation and the cost of filing the application the Landlord is entitled to by \$700.12. See Schedule 1 for the calculation of the amount owing. However, the Landlord is authorized to deduct from the amount owing to the Tenants \$68.37 per day for compensation for the use of the unit starting February 16, 2023 until the date the Tenants move out of the unit.
6. The Landlord or the Tenants shall pay to the other any sum of money that is owed as a result of this order.
7. If the unit is not vacated on or before March 11, 2023, then starting March 12, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
8. 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 12, 2023.

February 28, 2023

Date Issued

John Cashmore

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 12, 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 Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before February 28, 2023

Rent Owing To February 28, 2023	\$18,831.20
Application Filing Fee	\$186.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$16,538.56
Total the Tenants must pay to continue the tenancy	\$2,478.64

B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before March 11, 2023

Rent Owing To March 31, 2023	\$20,910.84
Application Filing Fee	\$186.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$16,538.56
Total the Tenants must pay to continue the tenancy	\$4,558.28

C. Amount the Tenants must pay if the tenancy is terminated

Rent Owing To Hearing Date	\$17,777.11
Application Filing Fee	\$186.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$16,538.56
Less the amount of the last month's rent deposit	- \$2,118.00
Less the amount of the interest on the last month's rent deposit	- \$6.67
Total amount owing to the Landlord	\$(700.12)
Plus daily compensation owing for each day of occupation starting February 16, 2023	\$68.37 (per day)