



Order under Section 69 Residential Tenancies Act, 2006

Citation: Beaudoin v Ellis, 2023 ONLTB 18224

Date: 2023-02-28

File Number: LTB-L-011964-22

In the matter of: 1294 OAK ST
WINDSOR ON N8X2B1

Between: Cathy Beaudoin and Lionel Beaudoin Landlords

And

Richard Ellis Tenant

Cathy Beaudoin and Lionel Beaudoin (the 'Landlords') applied for an order to terminate the tenancy and evict Richard Ellis (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes (L1 application).

The Landlords also applied for an order to terminate the tenancy and evict Richard Ellis (the 'Tenant') because:

- the Tenant has been persistently late in paying the Tenant's rent (L2 application).

The Landlords also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on January 10, 2023.

Only the Landlords' Legal Representative Kira Passell and the Landlords attended the hearing.

As of approximately 10:15 a.m., 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 Landlords' evidence.

Determinations:

L1 Application

1. The Landlords served the Tenant with a valid Notice to End Tenancy Early for Nonpayment 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 \$600.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$19.73. This amount is calculated as follows: \$600.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to January 10, 2023 are \$8,597.30.
7. There is no last month's rent deposit.
8. It was the Landlords' uncontested testimony that the Tenant had originally lived in the unit with his wife, who moved out approximately 5 years ago. They testified that when she left, they reduced the monthly rent from \$850.00 per month to the current lawful monthly rent of \$600.00 to assist the Tenant and did not increase the rent since that time.

L2 Application

9. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. Therefore, the tenancy between the Landlords and Tenant is terminated. The Tenant must move out of the rental unit on or before March 11, 2023.
10. The Tenant was in possession of the rental unit on the date the application was filed.

N8 Notice of Termination

11. On February 6, 2022, the Landlord gave the Tenant an N8 notice of termination deemed served on February 11, 2022. The notice of termination contains the following allegations:
 - the Tenant has been persistently late in making rent payments in January, February, March, July, August, September, and October of 2021. No payments were made after that time.
12. The Tenant has persistently failed to pay the rent on the date it was due. The rent is due on the 1st day of each month. The rent has been paid late 9 times in the past 12 months:
 - January 2021 rent: paid on January 8
 - February 2021 rent: paid on February 5
 - March 2021 rent: paid on March 4

- July 2021 rent: paid on July 2, July 8
- August 2021 rent: paid on July 22, August 6
- September 2021 rent: paid on September 3, September 16
- October 2021 rent: paid October 1, October 15
- November 2021 rent: unpaid
- December 2021 rent: unpaid

13. After the application was filed, no further rent was paid up to the date of the hearing.

Relief from eviction

14. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and whether the Landlords attempted to negotiate a repayment agreement with the Tenant and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
15. The Landlords testified that they have attempted to communicate several times with the Tenant regarding a payment plan but that there has been hostility and significant communications issues, and threats have been made by the Tenant. The Landlords' Legal Representative indicated that she sent a letter to the Tenant inviting him to contact her office regarding a payment plan and did not receive a response.

It is ordered that:

1. Pursuant to the L2 Application, the tenancy between the Landlords and the Tenant is terminated. The Tenant must move out of the rental unit on or before March 11, 2023.
2. The Tenant shall pay the Landlords the rent arrears owing up to the date of the hearing in the amount of \$8,597.30. See Schedule 1 for the calculation of the amount owing.
3. The Landlords incurred costs of \$186.00 for filing the application and are entitled to reimbursement of those costs.
4. The total amount owing by the Tenant to the Landlords is \$8,783.30.
5. The Tenant shall also pay the Landlords daily rent/compensation of \$19.73 per day for the use of the unit starting January 11, 2023 to the date the Tenant moves out of the unit.
6. If the Tenant does not pay the Landlords the full amount owing on or before March 11, 2023, the Tenant will start to owe interest. This will be simple interest calculated from March 12, 2023 at 5.00% annually on the balance outstanding.

7. If the unit is not vacated on or before March 11, 2023, then starting March 12, 2023, the Landlords 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 Landlords on or after March 12, 2023.

February 28, 2023

Date Issued

Margo den Haan

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 Tenant must pay as the tenancy is terminated

Rent Owing To Hearing Date	\$8,597.30
Application Filing Fee	\$186.00
NSF Charges	\$0.00
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	- \$0.00
Total amount owing to the Landlord	\$8,783.30
Plus daily compensation owing for each day of occupation starting January 11, 2023	\$19.73 (per day)

2023 ONLTB 18224 (CanLII)