



Order under Section 69 Residential Tenancies Act, 2006

Citation: Homestead Land Holdings Limited v Kazazian, 2023 ONLTB 21858

Date: 2023-02-24

File Number: LTB-L-038229-22

In the matter of: 605, 690 WONDERLAND RD N
LONDON ON N6H4T7

Between: Homestead Land Holdings Limited Landlord

And

Aram Kazazian Tenant

Homestead Land Holdings Limited (the 'Landlord') applied for an order to terminate the tenancy and evict Aram Kazazian (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on February 14, 2023.

The Landlord's Representative, Tanya Rose, 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 \$1,571.50. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$51.67. This amount is calculated as follows: \$1,571.50 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 February 28, 2023, are \$14,454.44.
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 \$1,535.63 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 \$7.99 is owing to the Tenant for the period from December 1, 2022, to February 14, 2023.

Section 83- Testimony

10. The Tenant testified that his sole source of income had been Ontario Works, however he will be starting at a new place of employment with fulltime hours. The pay will be \$17.50/hour, with approximately 44 hours per week of work. The Tenant did not submit any evidence to corroborate his testimony.
11. The Tenant has proposed a payment of plan of \$750.00/month until the arrears are fully paid. The Tenant stated that the only expense he currently has is for food. His electricity is subsidized and only costs the Tenant \$20/month, and his phone is paid by another family member. The Tenant did not testify to any transportation expenses that he may incur for getting to and from his new place of employment. The proposed payment plan would take approximately 20 months to clear the arrears from the Tenant's account.
12. The Tenant stated that he shares custody of two children, ages 8 and 13, with the children's mother.
13. The Tenant stated that if the Board were to deny his payment plan and choose to terminate the tenancy, he would like to stay in the unit until April 30, 2023, to allow himself more time to find a new home.
14. The Landlord stated that the proposed payment is unrealistic and finds that it is likely to fail.
15. The Landlord also brought up the Tenant's own testimony where the Tenant stated that he had not paid any rent despite having some income from Ontario Works (\$760/month), instead using those funds to cover other expenses.
16. The Landlord stated that they would not be opposed to a delayed termination date of April 30, 2023.

Section 83- Analysis

17. Section 83 of the *Residential Tenancies Act*, 2006 (the 'Act'), states:

83 (1) Upon an application for an order evicting a tenant, the Board may, despite any other provision of this Act or the tenancy agreement,

(a) refuse to grant the application unless satisfied, having regard to all the circumstances, that it would be unfair to refuse; or

(b) order that the enforcement of the eviction order be postponed for a period of time.

18. I am persuaded by the Landlord's evidence that this payment plan would likely fail, because it is too dependent on the Tenant working 44 hours per week, and even if the Tenant succeeded in working these hours, without considering sick days for himself or his children, it would not leave the Tenant enough money to pay any other expenses, including food for his children, throughout the month.

19. Furthermore, when the Tenant stated that he used his Ontario Works to pay for other expenses rather than putting it towards rent, I was persuaded that the Tenant's expenses are higher than he stated they were in his testimony.
20. Therefore, the Tenant's proposed payment plan is denied because I am not satisfied that the payment plan is sustainable. Furthermore, I find that a payment arrangement of any lower amount would have a duration of over two years, which I find to be unfair to the Landlord.
21. In consideration of the Tenant's children, I find that it is not unreasonable to expect that the Tenant will require additional time to find new accommodations. Furthermore, the Landlord stated that they were not opposed to giving the Tenant until April 30, 2023 to either vacate the unit or pay all of the arrears and void the order.
22. 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 postpone the eviction until April 30, 2023 pursuant to subsection 83(1)(b) of the Act.

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:**
 - \$14,640.44 if the payment is made on or before February 28, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 - \$16,211.94 if the payment is made on or before March 31, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 - \$17,783.44 if the payment is made on or before April 30, 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 April 30, 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 April 30, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$12,248.70. 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 \$51.67 per day for the use of the unit starting February 15, 2023 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 April 30, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 1, 2023 at 5.00% annually on the balance outstanding.
8. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
9. If the unit is not vacated on or before April 30, 2023, then starting May 1, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
10. 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 May 1, 2023.

February 24, 2023

Date Issued

Robert Brown

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 November 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 February 28, 2023

Rent Owing To February 28, 2023	\$14,454.44
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	\$14,640.44

B. 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	\$16,025.94
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	\$16,211.94

C. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before April 30, 2023

Rent Owing To April 30, 2023	\$17,597.44
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	\$17,783.44

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

Rent Owing To Hearing Date	\$13,606.32
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	- \$1,535.63
Less the amount of the interest on the last month's rent deposit	- \$7.99
Total amount owing to the Landlord	\$12,248.70
Plus daily compensation owing for each day of occupation starting February 15, 2023	\$51.67 (per day)