



**Order under Section 69
Residential Tenancies Act, 2006**

Citation: Capreit Limited Partnership - Ottawa Office v Schaefers, 2023 ONLTB 20605

Date: 2023-02-22

File Number: LTB-L-044665-22

In the matter of: 562 Woodcliffe Private
Ottawa Ontario K1C7P8

Between: Capreit Limited Partnership Landlord

And

Mike Schaefers Tenant

Capreit Limited Partnership (the 'Landlord') applied for an order to terminate the tenancy and evict Mike Schaefers (the 'Tenant') because:

- the Tenant has been persistently late in paying the Tenant's rent.

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

This application was heard by videoconference on February 8, 2023.

Only the Landlord's Legal Representative Allan Kouri attended the hearing.

As of 10:01 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. Since the Tenant 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 Mr. Khouri, advised the Board the Landlord was not seeking an eviction but rather a conditional order requiring the Tenant to pay the monthly rent on time and in full for a period of one year. Mr. Khouri submitted the Landlord and the Tenant had discussions prior to the hearing and agreed to this position.
2. The Landlord served the Tenant a valid N8 Notice of Termination on March 17, 2022. The termination date in the Notice is May 31, 2022.
3. As of the date of the hearing, the Tenant is in possession of the rental unit and was the day the application was filed.
4. The monthly rent is \$1,644.37 and it is due on the first day of each month.

5. The N8 Notice of Termination claims the Tenant failed to pay the monthly rent on time for seven consecutive months for the period between September 2021 and March 2022. The Notice contains the dates rent payments were made by the Tenant to the Landlord and none were on the first of the month. The documents and submissions of Mr. Khouri confirmed the claims contained in the N8 Notice.
6. Based on the uncontested evidence of the Landlord, I find the Landlord has proven on a balance of probabilities the Tenant has persistently failed to pay the monthly rent on the date it was due.
7. The Landlord's Legal Representative submitted that since the N8 Notice was served, the Tenant has made efforts to pay the monthly rent in full and on time.
8. 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. The Landlord sought a conditional order and Mr. Khouri advised the Board the Tenant was in agreement with a pay on time order. Given termination is a remedy of last resort I find it appropriate to allow the Tenant an opportunity to maintain the tenancy.

It is ordered that:

1. The Tenant shall pay to the Landlord the lawful monthly rent in full on or before the first day of each month, commencing March 1, 2023 and for 12 months thereafter up to and including February 1, 2024.
2. If the Tenants fail to comply with the conditions set out in paragraph 1 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 Tenant. 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 Tenant.
3. The Tenants shall pay to the Landlord \$201.00 for the cost of filing the application.
4. If the Tenants does not pay the Landlord the full amount owing on or before March 5, 2023, the Tenant will start to owe interest. This will be simple interest calculated from March 6, 2023 at 5.00% annually on the balance outstanding.

February 22, 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.