



Order under Section 69 Residential Tenancies Act, 2006

Citation: Macmillan v Chezem, 2023 ONLTB 20900

Date: 2023-02-16

File Number: LTB-L-034987-22

In the matter of: bedroom 5, 346 FLEMING DR
LONDON ON N5V4Y6

Between: Tate Macmillan Landlord

And

James Chezem Tenant

Tate Macmillan (the 'Landlord') applied for an order to terminate the tenancy and evict James Chezem (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on February 1, 2023.

Only the Landlord's legal representative, Melissa Anjema, attended the hearing.

As of 1:37pm 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 Landlord's evidence.

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 \$580.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$19.07. This amount is calculated as follows: \$580.00 x 12, divided by 365 days.
5. The Tenant has paid \$3,570.00 to the Landlord since the application was filed.
6. The rent arrears owing to February 28, 2023 are \$3,070.00.
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 \$580.00 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 \$8.23 is owing to the Tenant for the period from January 1, 2022 to February 1, 2023.

SECTION 83 RELIEF FROM EVICTION

10. At the hearing the Landlord's legal representative submitted that the Tenant and the property manager had exchanged emails regarding a repayment plan that was to be presented at the hearing. The Landlord's legal representative submitted the email as evidence that outlined the repayment terms the Tenant was proposing to the Landlord.
11. Given the email exchange between the Tenant and the property manager I am satisfied the Tenant intended to enter into a repayment plan with the Landlord to pay the outstanding arrears.
12. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Residential Tenancies Act, 2006 (the 'Act'), including that the Landlord is amenable to the repayment plan provided by the Tenant that provides the Tenant additional time to pay the arrears, and I find that it would not be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
13. I have considered all of the evidence presented at the hearing and all of the oral testimony and although I may not have referred to each piece of evidence individually or referenced all of the testimony, I have considered it when making my determinations.
14. This order contains all reasons for the determinations and order made. No further reasons will be issued.

It is ordered that:

1. The Tenant shall pay to the Landlord \$3,256.00, which represents the arrears of rent (\$3,070.00) and costs (\$186.00) outstanding for the period ending February 28, 2023 upon the following terms:
2. The Tenant shall pay to the Landlord the amount set out in paragraph 1 of this order in accordance with the following schedule:
 - (a) \$1,676.00 on or before February 1, 2023;
 - (b) \$500.00 on or before February 15, 2023;
 - (c) \$500.00 on or before March 15, 2023;
 - (d) \$500.00 on or before April 15, 2023; and

- (e) \$80.00 on or before May 15, 2023.
3. Commencing on March 1, 2023 and continuing for the duration of the outstanding arrears, the Tenant shall also pay to the Landlord new rent in full on or before first business day of each month.
4. If the Tenant fails to make any of the payments in accordance with paragraph 1 of this order, then:
- (a) 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, and for the payment of any new arrears of rent and NSF charges not already ordered under paragraph 1 of this order. The Landlord must make the application within 30 days of a breach of a condition set out in paragraph 1 of this order.
 - (b) The balance owing under paragraph 1 of this order shall become payable on the day following the date of default. The monies owing shall bear interest at the post-judgment interest rate determined under subsection 207(7) of the Act.

February 14, 2023
Date Issued

Greg Brocanier
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 August 31, 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.