



Order under Section 69 Residential Tenancies Act, 2006

Citation: Parkdale Apartment Nominee 1 Inc. v Ncube, 2023 ONLTB 20317

Date: 2023-02-16

File Number: LTB-L-034499-22

In the matter of: 106, 12 ELM GROVE AVE
TORONTO ON M6K2J1

Between: Parkdale Apartment Nominee 1 Inc. Landlord

And

Lungile Ncube Tenant

Parkdale Apartment Nominee 1 Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Lungile Ncube (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

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

The Landlord's legal representative, M. Ciobotaru, 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 \$820.26. It is due on the first day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$26.97. This amount is calculated as follows: \$820.26 x 12, divided by 365 days.
5. The Tenant paid \$2,640.00 since the application was filed.
6. The rent arrears owing to February 28, 2023 are \$15,776.42.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs, for a total of \$15,962.42 owing.
8. The Landlord collected a rent deposit of \$810.54 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. Interest on the deposit has been made to December 31, 2020.

9. The Tenant agrees that he owes the substantial amount of arrears. He said that he has been unemployed and living on \$733.00 per month social assistance. He said that he has been actively looking for work in his field of IT governance. The Tenant most recently worked for CMHC before he was laid off, and he also worked for banks or technology companies.
10. The Tenant said that he has also looked for unskilled work, and he has an offer to work as a forklift driver for approximately \$800.00 per week. He did not submit evidence of the offer. However, as a post hearing submission, the Tenant submitted an undated email from Molson Coors Beverage Company reminding him to fill out a background check.
11. The Tenant has lived in the rental unit for 12 years. He said that he will pay \$1,020.00 this month, and then \$400.00 per month towards the arrears in addition to the monthly rent. He also said that he would like to remain in the unit because it is near to his daughter and potential employers.
12. The Landlord requests a standard termination order.
13. I find that the Tenant has not provided any evidence or testimony that credibly supports a current ability to pay \$400.00 per month in addition to the full rent going forward. He has only paid about three months of rent since the application was filed in June 2022, and he has not made any payment at all since October 2022. While his post-hearing submission proves that he was asked to fill in a background check for a job at Molson Coors Beverage Company, there is no documentary evidence that he filled in the background check. Nor is there evidence of when he filled it in, if he, in fact, completed it.
14. However, as the Tenant has lived in the rental unit for a long period of time without incident, and the last two years have been very difficult for workers who were laid off, and because the Tenant's chances of finding suitable alternative accommodation in his current financial situation are minimal, I find that it would not be unfair to provide him with an opportunity to carry out his payment plan proposal. If he is offered the job at Molson Coors Beverage Company, and he accepts the job, he would be able to meet the payments he proposes.
15. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and, based on the above considerations, I 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.

It is ordered that:

1. The Tenant shall pay \$15,962.42 arrears and costs to the Landlord as follows:
 - (a) \$1,020.00 on or before February 20, 2023,
 - (b) Commencing March 2023, and continuing each month up to and including March 2026, \$400.00 on or before the 15th day of each of those months, respectively,
 - (c) The balance of \$142.42 on or before April 15, 2026.

2. Commencing March 2023, and continuing each month up to and including April 2026, the Tenant shall pay the rent, in full, no later than the first day of each of those months, respectively.
3. If the Tenant fails to make any one of the payments in accordance with this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenant to the Landlord pursuant to paragraph 1 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenant, apply to the Board pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenant and requiring that the Tenant pay any new arrears, NSF fees and related charges that became owing after February 28, 2023.

February 16, 2023
Date Issued

Nancy Morris
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.