



Order under Section 69 Residential Tenancies Act, 2006

Citation: SECOND ST. PROPERTIES INC. v Tugade, 2023 ONLTB 20460

Date: 2023-02-15

File Number: LTB-L-013425-22

In the matter of: B2, 24 SECOND ST
ETOBICOKE ON M8V2X2

Between: SECOND ST. PROPERTIES INC. Landlord

And

Cristina Ma Bolado and Dan Jorell Tugade Tenants

SECOND ST. PROPERTIES INC. (the 'Landlord') applied for an order to terminate the tenancy and evict Cristina Ma Bolado and Dan Jorell Tugade (the 'Tenant') because:

- the Tenants did not pay the rent that the Tenants owe (L1 Application); and
- the Tenants have been persistently late in paying the Tenants' rent (L2 Application).

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

This application was heard by videoconference on January 12, 2023.

The Landlord's agent, David Rootham attended the hearing.

As of 10:20 a.m. the Tenants were not present or represented at the hearing.

Determinations:

L1 application: Arrears of Rent

1. The Landlord served the Tenant with a Notice to End Tenancy Early for Non-payment of Rent (N4 Notice).
2. As of the hearing date, the Tenants was still in possession of the rental unit.
3. The monthly rent is \$1,909.00. It is due on the 1st day of each month.
4. Based on the monthly rent, the daily rent/compensation is \$62.76. This amount is calculated as follows: \$1,909.00 x 12, divided by 365 days.
5. The Tenants paid \$8,053.76 to the Landlord since the application was filed.
6. The rent arrears owing to January 31, 2023 are \$16,533.24.

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 \$1,845.00 from the Tenants 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 \$71.96 is owing to the Tenants for the period from November 1, 2019 to January 12, 2023.
10. 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 Landlord attempted to negotiate a repayment agreement with the Tenants and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

L2 application: Persistent Late Payment of Rent

11. This is a month to month tenancy. The rent is due on the 1st day of each month.
12. The Landlord testified to the dates the rent has been paid late since July 1, 2021 to January 2, 2022, as outlined on the N8 Notice of Termination.
13. The Landlord also submitted that the Tenants continue to pay the rent late after service of the Form N8.
14. Based on the uncontested evidence adduced at the hearing, I find that the Tenants have persistently failed to pay the rent on the date it was due.
15. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

It is ordered that:

Order regarding L1 application

1. The tenancy between the Landlord and the Tenant is terminated as of February 26, 2023. The Tenants must move out of the unit on or before February 26, 2023.
2. **The Tenants may void this order for arrears of rent by paying to the Landlord or to the LTB in trust:**
 - \$18,628.24 if the payment is made on or before February 26, 2023. See Schedule 1 for the calculation of the amount owing.
3. The Tenants may also make a motion at the LTB to void this order for arrears of rent under section 74(11) of the Act, if the Tenants pay the full amount owing as ordered plus any additional rent that became due after February 26, 2023 but before the Court Enforcement

Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.

4. **If the Tenants do not pay the amount required to void this order for arrears of rent the Tenants must move out of the rental unit on or before February 26, 2023**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$13,646.41. 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 Tenants. See Schedule 1 for the calculation of the amount owing.
6. The Tenants shall also pay the Landlord compensation of \$62.76 per day for the use of the unit starting January 13, 2023 until the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before February 26, 2023, the Tenants will start to owe interest. This will be simple interest calculated from February 27, 2023 at 5.00% annually on the balance outstanding.
8. If the unit is not vacated on or before February 26, 2023, then starting February 27, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
9. 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 February 27, 2023.

Order regarding L2 application

10. Despite paragraphs 2, and 3, above, the tenancy between the Landlord and the Tenants is terminated as of February 26, 2023 due to persistent late payment of rent. The Tenants must move out of the rental unit on or before February 26, 2023.
11. If the unit is not vacated on or before February 26, 2023, then starting February 27, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
12. 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 February 27, 2023.

February 15, 2023

Date Issued

15 Grosvenor Street, Ground Floor
Toronto ON M7A 2G6

Debbie Mosaheb

Member, Landlord and Tenant Board

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 27, 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 Tenants must pay to void the order for arrears if the payment is made on or before February 26, 2023

Rent Owing To February 28, 2023	\$26,496.00
Application Filing Fee	\$186.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$8,053.76
Total the Tenants must pay to void the order for arrears of rent	\$18,628.24

B. Amount the Tenants must pay to the Landlord as the tenancy is terminated

Rent Owing To Hearing Date	\$23,431.12
Application Filing Fee	\$186.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$8,053.76
Less the amount of the last month's rent deposit	- \$1,845.00
Less the amount of the interest on the last month's rent deposit	- \$71.96
Total amount owing to the Landlord	\$13,646.41
Plus daily compensation owing for each day of occupation starting January 13, 2023	\$62.76 (per day)