



Order under Section 87 Residential Tenancies Act, 2006

Citation: The Silver Group v Blackned, 2023 ONLTB 16991

Date: 2023-02-07

File Number: LTB-L-031293-22

In the matter of: 304, 135 Cambridge Place
Sault Ste Marie ON P6A6E8

Between: The Silver Group Landlord

And

Desiree Blackned Tenant

The Silver Group (the 'Landlord') applied for an order to terminate the tenancy and evict Desiree Blackned (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 19, 2023. The Landlord's representative, Martez Jones, attended the hearing. As of 3:04 pm, 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. On April 11, 2022 the Landlord served the Tenant with a Notice to End the 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. The Landlord's N4 Notice has a duplicated entry for the rent period of January 1, 2022 to March 31, 2022. This period is covered in line 1 of the arrears chart on page 2 of the N4, as well as on line 2. It is not clear from the N4 how the Landlord determined that \$6037.19 were the arrears owing on the date that the N4 was served. The Landlord's representative also noted a \$200.00 discrepancy in the N4 when compared with the Landlord's rent ledger for this tenancy.
3. As a result of these errors, the Landlord's N4 does not set out the correct details respecting the termination of the tenancy, and therefore does not comply with s. 43(2) of the *Residential Tenancies Act, 2006* (the 'Act'). Accordingly, I find that the N4 is defective, and I am unable to consider a termination of the tenancy pursuant to s. 69(1) of the Act.
4. The Landlord's L1 application may however be considered for rent arrears only, pursuant to s. 87(1) of the Act. The Landlord's representative requested that the Board proceed with the Landlord's L1 application for rent arrears only. I was satisfied that the Landlord's

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representative understood the implications of this request. I therefore granted the Landlord's request.

5. As of the hearing date, the Tenant was still in possession of the rental unit.
6. The lawful rent is \$983.66. It is due on the 1st day of each month.
7. The Landlord's L1 application included rent arrears as of April 11, 2022. Since April 11, 2022, as per the rent ledgers for the tenancy submitted by the Landlord, the Tenant has paid \$3,010.00 to the Landlord.
8. The rent arrears owing to January 31, 2023 are \$11,688.21 – as per the rent ledgers for the tenancy submitted by the Landlord.
9. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
10. The Landlord collected a rent deposit of \$895.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit, and \$77.79 in interest from the rent deposit for the period from December 23, 2016 to January 19, 2023, can only be applied to the last rental period of the tenancy if the tenancy is terminated. As provided in paragraphs 2 and 3 above, termination of the tenancy will not be considered in this application.

It is ordered that:

1. The Tenant shall pay to the Landlord \$11,874.21. This amount includes rent arrears owing of \$11,688.21 as of January 31, 2023, and \$186.00 for the cost of filing the application.
2. If the Tenant does not pay the Landlord the full amount owing on or before March 7, 2023, the Tenant will start to owe interest. This will be simple interest calculated from March 8, 2023 at 5.00% annually on the balance outstanding.

February 7, 2023

Date Issued

Frank Ebner

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.