



Order under Section 69 Residential Tenancies Act, 2006

Citation: IMH POOL XX LP v Adjei, 2023 ONLTB 18200

Date: 2023-02-03

File Number: LTB-L-025821-22

In the matter of: 0608, 125 BAMBURGH CIR
TORONTO ON M1W3G4

Between: IMH POOL XX LP Landlord

And

Jason Adjei Tenant

IMH POOL XX LP (the 'Landlord') applied for an order to terminate the tenancy and evict Jason Adjei (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 16, 2023.

The Landlord did not attend the hearing but was represented by Debra Fine. The Tenant attended the hearing and was self-represented.

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 \$1,950.12. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$64.11. This amount is calculated as follows: \$1,950.12 x 12, divided by 365 days.
5. The Tenant has paid \$4,300.00 to the Landlord since the application was filed.
6. The rent arrears owing to January 31, 2023 are \$17,062.96.
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 \$1,927.00 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 \$57.57 is owing to the Tenant for the period from May 1, 2021 to January 16, 2023.

Section 83 considerations

10. The Tenant does not dispute the arrears owing as claimed by the Landlord, however, explained that due to a temporary interruption in his employment from May 2022 through to October 2022, he fell into arrears due to a lack of income. Elaborating further, he explained that during that time he received employment insurance benefits ('E.I.') which did not permit him to meet all of his life expenses. The Tenant also testified that he recently applied for, and was approved for, an unspecified amount of funding from the Rent Bank. However, the Tenant is awaiting for a payment arrangement letter from the Landlord in order to receive the rent cheque.
11. Currently, the Tenant is working on a full-time basis as a finish carpenter earning approximately \$750.00 - \$790.00 weekly. He also receives a Child Care Benefit ('CCB') on a monthly basis for an undisclosed amount, and earns income providing courier services of \$400.00 - \$500.00 per month. He summarized his monthly expenses as follows: (i) rent: \$1,950.12; (ii) groceries: \$500.00; (iii) telephone: \$290.00; (iv) car: \$390.00; and, (v) consumer proposal payment: \$150.00. The Tenant proposed to make a lump sum payment of \$1,000.00 followed by monthly payments of \$500.00 towards the arrears.
12. In response to questions posed by the Landlord's legal representative, the Tenant confirmed that from October 2022 through to January 2022, he had been paid by his employer for full-time work, however, decided not to pay his rent as it was his understanding that he had to hold onto his cheques and not pay this rent in order to qualify for Rent Bank benefits.
13. 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 Tenant and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. Comparing the Tenant's limited income against his monthly expenses, I am satisfied that the Tenancy is no longer viable. I am not satisfied that the Tenant has sufficient income to pay their rent let alone pay of the substantial arrears that have accrued. In my view it would be unfair to the Landlord to continue the tenancy.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
2. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$19,199.08 if the payment is made on or before February 14, 2023. See Schedule 1 for the calculation of the amount owing.
3. The Tenant may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenant has paid the full amount owing as ordered plus any additional rent that became due after February 14, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.

4. **If the Tenant does not pay the amount required to void this order the Tenant must move out of the rental unit on or before February 14, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$14,340.03. 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 Tenant. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$64.11 per day for the use of the unit starting January 17, 2023 until the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlord the full amount owing on or before February 14, 2023, the Tenant will start to owe interest. This will be simple interest calculated from February 15, 2023 at 5.00% annually on the balance outstanding.
8. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
9. If the unit is not vacated on or before February 14, 2023, then starting February 15, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
10. 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 15, 2023.

February 3, 2023
Date Issued

Emile Ramlochan
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 15, 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.

*Note: When the Board directs payment-out, the Canadian Imperial Bank of Commerce will issue a cheque to the appropriate party named in this notice. The cheque will be in the amount directed plus any interest accrued up to the date of the notice

Schedule 1
SUMMARY OF CALCULATIONS

A. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before February 14, 2023

Rent Owing To February 28, 2023	\$23,313.08
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$4,300.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total the Tenant must pay to continue the tenancy	\$19,199.08

B. Amount the Tenant must pay if the tenancy is terminated

Rent Owing To Hearing Date	\$20,438.60
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$4,300.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$1,927.00
Less the amount of the interest on the last month's rent deposit	- \$57.57
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlord	\$14,340.03
Plus daily compensation owing for each day of occupation starting January 17, 2023	\$64.11 (per day)