



**Order under Section 69
Residential Tenancies Act, 2006**

Citation: Coal Harbour Properties LLP v Barrientos, 2023 ONLTB 17106

Date: 2023-01-24

File Number: LTB-L-009303-22

In the matter of: 1103, 390 QUEENS QUAY W
TORONTO ON M5V3A6

Between: Coal Harbour Properties LLP Landlord

And

Trippie Barrientos Tenant

Coal Harbour Properties LLP (the 'Landlord') applied for an order to terminate the tenancy and evict Trippie Barrientos (the 'Tenant') because:

- the Tenant has been persistently late in paying the Tenant's rent.

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

This application was heard by videoconference on January 11, 2023.

Only the Landlord's Legal Representative attended the hearing.

As of 9:45 a.m., 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. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application however the Landlord's Legal Representative submitted that the Landlord is not seeking termination of the tenancy and is requesting a conditional order.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On February 4, 2022, the Landlord gave the Tenant an N8 notice of termination ('N8 Notice') The N8 Notice contains the allegations that the Tenant has persistently failed to pay the rent on the date it was due. The rent is due on the first day of each month. The rent has been paid late 13 times in the past thirteen months.
4. The Landlord's Legal Representative submitted the Tenant's rent ledger as evidence. The ledger shows that the Tenant has not paid the rent for the period of January 1, 2021 to

February 1, 2022, as reflected on the N8 Notice, on the day it was due. The ledger also shows that after the application was filed, the Tenant has continued to pay the rent late.

5. The Landlord is not seeking eviction, it only seeks a conditional order requiring the Tenant to pay the rent on time for a period of 12 months, failing which eviction could be ordered under section 78 of the RTA. This is a very common outcome to persistent late payment applications and is known as a “prompt payment order.”
6. The authority to issue a conditional order comes from subsection 204(1) of the *Residential Tenancies Act, 2006* (the “Act”), which provides that “the Board may include in an order whatever conditions it considers fair in the circumstances,” and from section 78 which provides for an enforcement procedure if a conditional order is contravened.
7. 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 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 Landlord’s application for eviction of the Tenant is denied on the condition that:
 - a) The Tenant shall pay the full monthly rent on or before the first day of each month, commencing February 1, 2023 and for 12 months thereafter up to and including January 1, 2024.
2. If the Tenant fails to comply with the conditions set out in paragraph 1 above, then, within 30 days of the breach, the Landlord may apply under section 78 of the Act for an order terminating the tenancy and evicting the Tenant. The Landlord must make the application within 30 days of a breach of a condition set out in paragraph 1 of this order.
3. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application. If the Tenant does not pay the Landlord the full amount owing on or before February 4, 2023, they will start to owe interest. This will be simple interest calculated from February 5, 2023 at 5.00% annually on the balance outstanding.

January 24, 2023

Date Issued

Susan Priest

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.