



Order under Section 69 Residential Tenancies Act, 2006

Citation: 177 Bayview Drive Limited c/o Realstar Management Partnership v Gordon, 2023
ONLTB 16534

Date: 2023-01-24

File Number: LTB-L-028174-22

In the matter of: 28, 177 BAYVIEW DR
BARRIE ON L4N4Y6

Between: 177 Bayview Drive Limited c/o Realstar Management Partnership Landlord

And

Nicole Gordon Tenant

177 Bayview Drive Limited c/o Realstar Management Partnership (the 'Landlord') applied for an order to terminate the tenancy and evict Nicole Gordon (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 17, 2023.

The Landlord's Agent, D. Inglehart, the Landlord's Legal Representative, F. McGregor and the Tenant attended the hearing. The Tenant was assisted by her son, A. Gordon.

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 \$1,760.27. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$57.87. This amount is calculated as follows: \$1,760.27 x 12, divided by 365 days.
5. The Tenant has paid \$9,425.00 to the Landlord since the application was filed.
6. The rent arrears owing to January 31, 2023 are \$8,178.12.
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 \$1,739.40 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 \$2.03 is owing to the Tenant for the period from January 1, 2023 to January 17, 2023.

Relief from eviction

10. A. Gordon testified on behalf of his mother, the tenant. He testified that he lives in the unit with his mother along with his brother and his brother's partner. He testified that he contributes to the rent. He testified that his mother receives senior's pension. He testified that his brother and himself were laid off around May of 2022 and that contributed to the arrears. He testified that his and his brother's employment is more regular now.
11. A. Gordon proposed a payment plan that would see the arrears paid off in approximately 9 months, by paying \$1,000.00 towards the arrears until paid in full. He testified that his mother, brother, and himself have no where to go if the tenancy is terminated.
12. The Landlord's legal representative submits that the payment plan that is suggested leaves the Tenant with a very slim margin after all expenses are considered and submits that the payment plan is not viable. The Landlord is seeking a standard order with a small extension instead of the payment plan that was suggested.
13. Based on the evidence before me, I find that the payment plan the Tenant, through her son, is suggesting is reasonable in the circumstances. I am mindful of the Landlord's legal representative's submissions regarding the small margin left over after the arrear's payment, rent and other expenses, however, I conclude that despite the small margin, it is affordable to the Tenant. I also find that a payment plan is reasonable in these circumstances given the length of the tenancy and the fact that the Tenant has made efforts to continue making payments towards the rent.
14. 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 Tenant shall pay to the Landlord \$8,178.12 for arrears of rent up to January 31, 2023 and \$186.00 in costs. The total amount owed to the Landlord is \$8,364.12.
2. The Tenant shall pay to the Landlord the amount set out in paragraph 1 in accordance with the following schedule:
 - Starting on February 1, 2023, the Tenant shall pay to the Landlord \$1,000.00 on or before the first day of every month until September 1, 2023.
 - On or before October 1, 2023, the Tenant shall pay to the Landlord \$364.12.

3. The Tenant shall also pay to the Landlord new rent on time and in full as it comes due and owing for the period February 1, 2023 to October 1, 2023, or until the arrears are paid in full, whichever date is earliest.

4. 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 LTB within 30 days of the Tenant's breach 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 January 31, 2023.

January 24, 2023
Issued

Date
Emily Robb _____
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.