



Order under Section 69 Residential Tenancies Act, 2006

Citation: Liu v Bedford, 2023 ONLTB 14736

Date: 2023-01-20

File Number: LTB-L-024250-22

In the matter of: 532 LILITH ST
NEPEAN ON K2J6M1

Between: Sheng Liu Landlords
Xue Wei

And

Emily Rose Marie Bedford Tenants
Lisa Anne Skinkle

Sheng Liu and Xue Wei (the 'Landlords') applied for an order to terminate the tenancy and evict Emily Rose Marie Bedford and Lisa Anne Skinkle (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on January 4, 2023.

The Landlord Sheng Liu and the Tenants attended the hearing. Landlords' Legal Representative R. Yu was also present.

Determinations:

Preliminary Issue: Is the N4 defective?

1. The Landlord mailed the Tenant a Notice to End Tenancy Early for Non-payment of Rent (N4 Notice) on April 05, 2022 deemed served on April 10, 2022 as per s.191 of the Residential Tenancies Act, 2006 (the 'Act'). The Landlord claimed \$14,740.00 as rent arrears in the N4 notice for the period July 01, 2020 to April 30, 2022.
2. The application was filed with the Board on April 28, 2022. The Landlords' Legal Representative sent an amended application to the Board on January 1, 2023 which

included a \$1,600.00 additional rent paid by the Tenants during the period January 1, 2022 to April 30, 2022 along with the copy of the Landlords' ledger. As the rent payments reflected in the amended L1 were received after the N4 was served, the N4 Notice correctly identified the amount of rent owing by the Tenant when it was served.

L1 application: Rent arrears

3. 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.
4. As of the hearing date, the Tenant was still in possession of the rental unit.
5. The lawful rent is \$1,880.00. It is due on the 1st day of each month.
6. Based on the Monthly rent, the daily rent/compensation is \$61.81. This amount is calculated as follows: \$1,880.00 x 12, divided by 365 days.
7. The Tenant has paid \$9,960.00 to the Landlord since the application was filed.
8. The rent arrears owing to January 31, 2023 are \$21,300.00.
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 \$1,880.00 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.
11. Interest on the rent deposit, in the amount of \$95.70 is owing to the Tenant for the period from January 30, 2019 to January 4, 2023.

Is the tenancy a joint tenancy or tenancy in common?

12. The tenancy is a joint tenancy with Emily Rose Marie Bedford and Lisa Anne Skinkle listed as joint tenants on the lease.
13. The Tenant Emily Bedford testified that she had texted the Landlord in July of 2020 requesting that he ask the other Tenant, Lisa Skinkle, who is her mother, to pay her part of the rent directly to the Landlord since Lisa was not able to pay rent and/or in time. The texts were put into evidence. She also asked the Landlord to sign a new lease without Lisa Skinkle in another text message around July 28, 2020. She also wanted the Board to consider not issuing an order against her since she paid her part of the rent to the Landlord, while Lisa did not.
14. On reviewing the messages, I find that even though she requested the Landlord to sign a new lease with just her, she backtracked from that request in another text message around

August 26, 2020. More importantly, there was no agreement reached that Emily Bedford's and Lisa Skinkle's tenancy will be severed. Therefore, the Tenant's claim that she should be removed as a party from the order as she has been paying her half of the rent, cannot be granted. As the Tenants are joint tenants as per the lease they signed on or around January 30, 2019 and there was no agreement to sever the joint tenancy, both Tenants are jointly responsible for the entirety of the rent amount due per month.

Section 83 considerations

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 not be unfair to postpone the eviction until February 28, 2023 pursuant to subsection 83(1)(b) of the Act.
16. The Tenant Lisa Skinkle testified that she has been unemployed and also battled depression for some time after her father's death, making her fall behind on the rent payments. She also testified that she is back to work now and should be able to pay her rent in time. She was unable to come up with a payment plan to pay of the substantial rent arrears accrued since the start of the tenancy. The Tenant said she was willing to get assistance from external agencies which may help her pay off some of the rent arrears but there was nothing that was finalized.
17. Even though I believe that the Tenant Lisa Skinkle is able to make rent payment on time going forward, the amount of rent arrears is substantial and prejudicial to the Landlord if the Tenants are unable to pay the same. Therefore, as discussed in the hearing room and on consent from the Landlords I am delaying the eviction until February 28, 2023.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants void this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$21,486.00 if the payment is made on or before January 31, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 - \$23,366.00 if the payment is made on or before February 28, 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 under section 74(11) of the Act, if the Tenants have paid the full amount owing as ordered plus any additional rent that became due after February 28, 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 Tenants do not pay the amount required to void this order the Tenants must move out of the rental unit on or before February 28, 2023**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$17,877.53. 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 Tenants shall also pay the Landlord compensation of \$61.81 per day for the use of the unit starting January 5, 2023 until the date the Tenant moves out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before February 28, 2023, the Tenants will start to owe interest. This will be simple interest calculated from March 1, 2023 at 5.00% annually on the balance outstanding.
8. If the unit is not vacated on or before February 28, 2023, then starting March 1, 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 March 1, 2023.

January 20, 2023

Date Issued

Sheena Brar

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 September 1, 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 eviction order and continue the tenancy if the payment is made on or before January 31, 2023

Rent Owing To January 31, 2023	\$31,260.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$9,960.00
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 Tenants must pay to continue the tenancy	\$21,486.00

B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before February 28, 2023

Rent Owing To February 28, 2023	\$33,140.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$9,960.00
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 Tenants must pay to continue the tenancy	\$23,366.00

C. Amount the Tenants must pay if the tenancy is terminated

Rent Owing To Hearing Date	\$29,627.23
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$9,960.00
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	- \$1,880.00
Less the amount of the interest on the last month's rent deposit	- \$95.70

Less the amount the Landlord owes the Tenants 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	\$17,877.53
Plus daily compensation owing for each day of occupation starting January 5, 2023	\$61.81 (per day)