



Order under Section 69 Residential Tenancies Act, 2006

Citation: D.D. Acquisition partnership v Adams, 2023 ONLTB 15293

Date: 2023-01-19

File Number: LTB-L-024129-22

In the matter of: 404, 1475 BIRCHMOUNT RD
SCARBOROUGH ON M1P2G4

Between: D.D. Acquisition Partnership Landlord

And

Cornisha Adams Tenant

2023 ONLTB 15293 (CanLII)

D.D. Acquisition Partnership (the 'Landlord') applied for an order to terminate the tenancy and evict Cornisha Adams (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

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

The Landlord's legal representative, K. Anderson, and the Tenant attended the hearing.

Determinations:

Adjournment Request:

1. The Tenant requested an adjournment because she had recently had a baby, and it was too stressful to properly prepare for the hearing. She said that she has a number of Tenant issues to raise with the Landlord, and she needs more time to disclose them.
2. The Landlord opposed the adjournment because the amount of outstanding arrears are substantial, and the Tenant has made no payment at all in about 10 months. The Landlord's legal representative said that the matter does not need to be adjourned in order for the Tenant to raise her issues, as she has the option of filing her own Tenant application, and it would be prejudicial to the Landlord to delay the hearing for the application any further.
3. I denied the Tenant's request for an adjournment for the reasons that follow.
4. The Board mailed the notice of hearing to the Tenant on October 28, 2022, and it was deemed to have been served on the Tenant on November 2, 2022. The Tenant has had, therefore, over two months to prepare for the hearing and to disclose any Tenant issues that she may have. The Tenant owes over \$20,000.00 in arrears and costs, and she has made no payment at all towards the rent since March 2022, which was only a few months

after she had moved into the rental unit. Consequently, I find that it would be prejudicial to the Landlord to delay the hearing for the arrears any further, especially as the Tenant has the option of filing her own Tenant application.

L1 Application:

5. 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.
6. As of the hearing date, the Tenant was still in possession of the rental unit.
7. The lawful rent is \$2,000.72. It is due on the 1st day of each month.
8. Based on the Monthly rent, the daily rent/compensation is \$65.78. This amount is calculated as follows: $\$2,000.72 \times 12$, divided by 365 days.
9. The Tenant has not made any payments since the application was filed.
10. The rent arrears owing to January 31, 2023 are \$19,841.16.
11. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
12. The Landlord collected a rent deposit of \$1,977.00 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.
13. Interest on the rent deposit, in the amount of \$37.78 is owing to the Tenant for the period from April 1, 2022 to January 4, 2023.
14. The Tenant admits that she has not paid rent since March 2022, and she said that she withheld rent because of maintenance issues. She said that she does not have sufficient funds to pay off the entire arrears, and she was paying her rent with a credit card. The Tenant alleges that the Landlord charges fees for her to pay by credit card. She said that she is willing to pay the rent when she can, and she has not looked for another place to live.
15. The Tenant said that her income of approximately \$1,600.00 per month comes from Ontario Works and child tax credit. She said that she has no other source of income.
16. The Tenant submits that she would like to remain in the rental unit, but she would like to make the payments without any fees or interest. The Tenant requests to have a further six months to pay off the arrears and rent.
17. The Landlord requests a standard termination order. The Landlord submits that the Tenant's stated income is insufficient to pay the monthly rent, and the Tenant has failed to make any payment at all since March 2022. They submit that it is prejudicial for the tenancy to continue.
18. 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. In particular, the Tenant stopped paying the rent shortly after moving in, she has failed to pay the rent for 11 months, and she does not have sufficient income to pay the rent going forward. She has not made any good faith payments towards the rent for that period of time. The tenancy is no longer viable, and it is prejudicial to the Landlord for the tenancy to continue. However, the Tenant has recently given birth, and she has small children to support. Consequently, I find that it would not be unfair to postpone the eviction until February 15, 2023 pursuant to subsection 83(1)(b) of the Act.

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:**
 - \$20,027.16 if the payment is made on or before January 31, 2023. See Schedule 1 for the calculation of the amount owing.
- OR**
- \$22,027.88 if the payment is made on or before February 15, 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 15, 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 15, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$16,274.78. 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 \$65.78 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 Tenant does not pay the Landlord the full amount owing on or before February 15, 2023, the Tenant will start to owe interest. This will be simple interest calculated from February 16, 2023 at 5.00% annually on the balance outstanding.
8. If the unit is not vacated on or before February 15, 2023, then starting February 16, 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 February 16, 2023.

January 19, 2023
Date Issued

Nancy Morris
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 16, 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 Tenant 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	\$19,841.16
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
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	\$20,027.16

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before February 15, 2023

Rent Owing To February 28, 2023	\$21,841.88
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
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	\$22,027.88

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

Rent Owing To Hearing Date	\$18,103.55
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
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	- \$1,977.00
Less the amount of the interest on the last month's rent deposit	- \$37.78
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	\$16,274.78
Plus daily compensation owing for each day of occupation starting January 5, 2023	\$65.78 (per day)