



Order under Subsection 87(1) Residential Tenancies Act, 2006

Citation: Liu v Popa, 2023 ONLTB 15727

Date: 2023-01-18

File Number: LTB-L-023746-22

In the matter of: ONE ROOM ONLY, 505A GLENELM CRES
WATERLOO ON N2L5C7

Between: Hong Liu and Yingdong Zhu Landlord

And

Florin Popa Tenant

Hong Liu and Yingdong Zhu (the 'Landlord') applied for an order to terminate the tenancy and evict Florin Popa (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes. As a result of a defect with the N4 Notice of Termination the Landlord requested to convert the application to an L9 application for arrears only.

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

Both the Landlords and the Tenant attended the hearing.

Determinations:

The Tenant's Participation in the Hearing

1. During the hearing there was a problem with the Tenant's phone connection. The Tenant was present at the start of the hearing. The Tenant disconnected from the hearing several times. I asked the Tenant what was causing the problem and the Tenant did not provide an answer and instead wanted to tell me what the problem he had with his landlord was. The Tenant indicated that they wanted to proceed however they eventually disconnected again. I held the matter down until the matter was my last matter on the docket and addressed the matter for a final time at approximately 4:02p.m. The Tenant was not present in the hearing room for the conclusion of the hearing and therefore did not provide evidence on the outstanding arrears.

The Application is Limited to the Type of Notice of Termination Filed

2. The Landlord wanted to seek eviction for the behaviour of the Tenant, but only filed an N4 Notice of Termination regarding rent arrears and an L1 Application for eviction based on rent arrears. As the Landlord did not serve nor file an eviction application about the Tenant's behaviour, I declined to hear any evidence or submissions in that regard. I do not have the jurisdiction to terminate a tenancy for reasons not included in a notice of termination properly served upon a tenant.



The N4 Notice of Termination

3. At the outset of the hearing I raised a concern that the N4 Notice of Termination ('N4 Notice') did not properly identify the rental unit. The N4 Notice describes the rental unit as "505A Glenelm Crescent, Waterloo Ontario N2L 5C7 (one room only)".
4. At the hearing the Landlord testified that the rental property is a rooming house, and the tenant occupies a room on the second floor. The Landlord also testified that there are three rooms total that are rented out on the second floor.
5. The address of the rental property is 505A Glenelm Crescent. The A does not relate to the Tenant's room number.
6. Subsection 43(1) of the *Residential Tenancies Act, 2006* (the 'Act') sets out the minimum requirements for a notice of termination of a tenancy. Paragraph 43(1)(a) of the Act provides that a notice of termination shall identify the rental unit for which the notice is given. Subsection 43(1) of the Act provides as follows:

Where this Act permits a landlord or tenant to give a notice of termination, the notice shall be in a form approved by the Board and shall,

- (a) **identify the rental unit for which the notice is given;**
 - (b) state the date on which the tenancy is to terminate; and
 - (c) be signed by the person giving the notice, or the person's agent. [Emphasis added]
7. The proper identification of the rental unit is a strict statutory requirement. It is required to ensure that the tenant is given notice that his or her unit is subject to a request to terminate the tenancy and, where applicable, allow the tenant to void the notice. Additionally, the proper identification of the rental unit is to ensure that eviction by the Sheriff occurs only at the portion of the property that is the subject of the tenancy agreement, thereby, ensuring another unit at the property is not affected by the eviction.
 8. The N4 Notice does not make clear what room in the rental property is the subject of the eviction application. The Landlords may have been aware of this problem prior to the hearing as on their L1/L9 Information Update Sheet they provide more information about the rental unit and describe it as "Rm at northeast corner of 2nd fl-505A Glenelm Cres..." However, the N4 Notice is the originating document for an arrears eviction application, and it must properly identify the rental unit. As the N4 does not provide any description that identifies the rental unit, the N4 Notice is defective. A defective notice of termination cannot ground an eviction application.
 9. As a result of the defect with the N4 Notice the Landlord requested to convert the application to an L9 application for arrears only. That is, termination was no longer before me, and the only question was the amount of outstanding arrears.

The Arrears Application

10. As of the hearing date, the Tenant was still in possession of the rental unit.



11. The Tenant did not pay the total rent they were required to pay for the period from April 1, 2022 to January 31, 2023.
12. The lawful rent is \$490.00. It is due on the 1st day of each month.
13. The Tenant has paid \$1,870.00 to the Landlord after the application was filed.
14. The rent arrears owing to January 31, 2023 are \$3,030.00
15. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

It is ordered that:

1. The Tenant shall pay to the Landlord \$3,219.00. This amount includes rent arrears owing up to January 31, 2023 and the cost of the application.
2. If the Tenant does not pay the Landlord the full amount owing on or before January 29, 2023, the Tenant will start to owe interest. This will be simple interest calculated from January 30, 2023 at 5.00% annually on the balance outstanding.
3. The eviction portion of the Landlord's application is dismissed.

January 18, 2023
Date Issued

Amanda Kovats
Member, Landlord and Tenant Board

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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.