



Order under Section 69 Residential Tenancies Act, 2006

Citation: *Muy v Samady*, 2023 ONLTB 14117

Date: 2023-01-09

File Number: LTB-L-042491-22

In the matter of: Basement, 2011 Dundas St W
Toronto ON M6R1W7

Between: Siem Muy Landlord

And

Parwana Samady Tenant

Siem Muy (the 'Landlord') applied for an order to terminate the tenancy and evict Parwana Samady (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on November 10, 2022.

Only the Landlord and the Landlord's representative Richard Sobolewski attended the hearing.

As of 9:30 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. The rental unit was originally leased to Philip Moran and Merek Toporowski who vacated the rental unit on February 28 2022.
2. Philip Moran and Merek Toporowski transferred the keys to the rental unit to Parwana Samady. Parwana Samady, was an occupant, that remained living in the rental unit. The Landlord did not file an application with the Board to evict Parwana Samady within 60 days of the former Tenants vacating. Therefore, the tenancy was transferred to Parwana Samady.
3. Landlord served the Tenant with a valid Notice to End Tenancy 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 \$1,500.00. It is due on the first day of each month.
6. Based on the Monthly rent, the daily rent/compensation is \$49.32. This amount is calculated as follows: \$1,500.00 x 12, divided by 365 days.
7. The Tenant has not made any payments since the application was filed.

8. The rent arrears owing to November 30, 2022 are \$10,500.00.
9. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.
10. There is no last month's rent deposit.
11. I have considered all of the disclosed circumstances in accordance with subsection (2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
12. The Tenant took possession of the rental unit and since doing so, refused to pay rent to the Landlord. The Tenant did not appear at the hearing to give evidence regarding her circumstances and why the rent is in arrears. The arrears owing to the Landlord are significant and the Landlord is experiencing financial distress as a result of the rent arrears. It would be prejudicial to the Landlord to allow the Tenancy to continue.

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:
 - \$15,201.00 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 \$10,701.00. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$49.32 per day for the use of the unit starting December 1, 2022 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. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
9. 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.

10. 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 26, 2023
Date Issued

Maria Shaw
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 July 21, 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.

*Note: When the Board directs payment-out, the Canadian Imperial Bank of Commerce will issue a cheque to the appropriate party named in this notice. The cheque will be in the amount directed plus any interest accrued up to the date of the notice

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 February 15, 2023

Rent Owing To February 28, 2023	\$15,000.00
Application Filing Fee	\$201.00
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	\$15,201.00

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

Rent Owing To Hearing Date	\$10,500.00
Application Filing Fee	\$201.00
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	- \$
Less the amount of the interest on the last month's rent deposit	- \$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 amount owing to the Landlord	\$10,701.00
Plus, daily compensation owing for each day of occupation starting December 1, 2022	\$49.32 (per day)