



Order under Section 69 Residential Tenancies Act, 2006

Citation: 1268233 Ontario Limited V Furtado, 2022 ONLTB 14548

Date: 2022-12-22

File Number: LTB-L-071038-22
(TNL-35422-21)

In the matter of: 27186 ONTARIO KENNEDY ROAD
WILLOW BEACH ONTARIO L0E1S0

Between: 1268233 Ontario Limited Landlord

And

Maria Lourdes Furtado Tenant

Your file has been moved to the Landlord and Tenant Board's new case management system, the Tribunals Ontario Portal. Your new file number is LTB-L-071038-22

1268233 Ontario Limited (the 'Landlord') applied for an order to terminate the tenancy and evict Maria Lourdes Furtado (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on December 6, 2022.

The Landlord and the Tenant attended the hearing.

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 \$1,100.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$36.16. This amount is calculated as follows: \$1,100.00 x 12, divided by 365 days.
5. The Tenant has paid \$2,500.00 to the Landlord since the application was filed.
6. The rent arrears owing to December 31, 2022 are \$12,275.00.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

8. The Tenant intended to raise s.82 issues at the last hearing on March 28, 2022 and it was the reason for the adjournment. The Tenant did not send in any disclosures for the s.82 issues she intended to raise at this hearing either, so her s.82 issues were not addressed. The Tenant may choose to bring her own application before the Board if she chooses to, in the future.
9. The Landlord collected a rent deposit of \$1,100.00 from the Tenant on September 1, 2018 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.
10. Interest on the rent deposit, in the amount of \$65.01 is owing to the Tenants for the period from September 1, 2018 to January 15, 2023.

Section 83 considerations

11. The Tenant testified that she has had to deal with some health issues in the last few years causing her to get into rent arrears. She was even laid off from her work last year causing further arrears.
12. Based on the current circumstances of the Tenant and her income and expenses, the Tenant can barely afford to pay her rent. Even though she did testify that she is expecting to have more shifts at work in the near future, but it is not finalised yet. The Tenant also testified that she has learnt about some rental assistance programs at the hearing from Tenant Duty Council and will be applying to those to pay off the arrears.
13. The Landlord testified that the large sum of arrears is causing him financial hardships as well. He is expected to pay mortgage and taxes irrespective of the Tenant not paying rent in time.
14. Based on the testimony before me the Tenant has not made any efforts since the application was filed to pay rent in time and neither has, she made any efforts to pay off the arrears. I do sympathise with the Tenant's circumstances, but she accumulated substantial rent arrears. I find that this tenancy is not viable for the Tenant to sustain, with her current circumstances. I am though willing to grant her some extra time to find alternate accommodation since the Landlord has last month's rent deposit with him.
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 January 30, 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:**
 - \$12,461.00 if the payment is made on or before December 31, 2022. See Schedule 1 for the calculation of the amount owing.

OR

- \$13,561.00 if the payment is made on or before January 3, 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 January 30, 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 January 30, 2023**
 5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$10,415.07. 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 \$36.16 per day for the use of the unit starting December 6, 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 January 30, 2023, the Tenant will start to owe interest. This will be simple interest calculated from January 31, 2023 at 5.00% annually on the balance outstanding.
 8. If the unit is not vacated on or before January 30, 2023, then starting January 31, 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 January 31, 2023.

December 22, 2022

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 July 4, 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 December 31, 2022

Rent Owing To December 31, 2022	\$42,900.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$30,625.00
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	\$12,461.00

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before January 3, 2023

Rent Owing To January 31, 2023	\$44,000.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$30,625.00
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	\$13,561.00

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

Rent Owing To Hearing Date	\$42,016.99
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$30,625.00
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	- \$1,100.00
Less the amount of the interest on the last month's rent deposit	- \$62.92
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	\$10,415.07
Plus daily compensation owing for each day of occupation starting	\$36.16 (per day)