



Order under Section 69/88.2 Residential Tenancies Act, 2006

Citation: Copeland v Taylor, 2022 ONLTB 14552

Date: 2022-12-19

File Number: LTB-L-027642-22

In the matter of: Upstairs Unit, 10 Raithby Cres.
AJAX ON L1Z0S2

Between: Corgia Copeland and Jason Copeland Landlords

And

Lindsay Taylor Tenant

Corgia Copeland and Jason Copeland (the 'Landlords') applied for an order to terminate the tenancy and evict Lindsay Taylor (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

And

The Tenant, another occupant of the rental unit or someone the Tenant permitted in the building has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord in a building that has three or fewer residential units and the Landlords resides in the building.

The Landlords also claimed compensation for each day the Tenant remained in the unit after the termination date.

The Landlords applied for an order requiring Lindsay Taylor (the 'Tenant') to pay the Landlords' reasonable out-of-pocket expenses that are the result of the Tenant's failure to pay utility costs they were required to pay under the terms of the tenancy agreement.

These application were heard by videoconference on December 9, 2022. The Landlords, the Landlord's representative Marek Z. Tufman and the Tenant attended the hearing.

Determinations:

L2 application

1. The Landlord filed an L2 application with the Board on May 17, 2022.

N7 Notice of Termination

2022 ONLTB 14552 (CanLII)

2. On April 4, 2022, the Landlords gave the Tenant an N7 notice of termination for alleged substantial interference deemed served on April 4, 2022. The date of termination on the N7 notice of termination is April 16, 2022.
3. Subsection 69 of the *Residential Tenancies Act, 2006* (the 'Act') states,
 - (1) A landlord may apply to the Board for an order terminating a tenancy and evicting the tenant if the landlord has given notice to terminate the tenancy under this Act or the *Tenant Protection Act, 1997*. 2006, c. 17, s. 69 (1).
 - (2) An application under subsection (1) may not be made later than 30 days after the termination date specified in the notice. 2006, c. 17, s. 69 (2).
4. In the application before me, the Landlord did not apply to the Board within the 30 day period. For this reason, the Landlord's application pertaining to substantial interference is void and must be dismissed.

L1 application

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 \$2,850.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$93.70. This amount is calculated as follows: \$2,850.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to December 31, 2022 are \$25,650.00.
7. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlords collected a rent deposit of \$2,850.00 from the Tenant and this deposit is still being held by the Landlords. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
9. Interest on the rent deposit, in the amount of \$27.27 is owing to the Tenant for the period from February 22, 2022 to December 9, 2022.
10. 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 8, 2023 pursuant to subsection 83(1)(b) of the Act. This extension of time accounts for both parties' submissions about their circumstances, while the Landlords are seeking a standard order, given the time in the year the Landlords suggested a maximum one month delay. The Tenant in her submission asked for consideration to remain in the unit until February 28, 2023. The Landlords testified that the

arrears are causing them significant financial hardship as the Tenant stopped paying rent two months after moving in. That they rely on the rent to pay the mortgage on the rental property and that they are on the brink of bankruptcy as they are paying for three mortgages as well as for the utilities as the Tenant has stopped paying for those as well. The Tenant testified that she has 6 children of various ages between 18 years and a new born. That she is currently on ODSP and in receipt of Canada Child Tax Benefits totalling \$4,358.00 per month, and up until 5 months ago she was also receiving child support from her ex-partner, which is a monthly loss of \$2,100.00 causing her to have financial difficulties. The Tenant is concerned about the ability to find suitable housing noting the current rental market conditions, the fact that she has a large family and pets. The extension of time will provide the Tenant time to secure a new place to live for her and family. Since the Landlord is holding a rent deposit, the arrears should not increase further. I also note that the parties have tried to work out a payment plan since the application was filed, but they are unable to come to an agreement. At this time, a payment plan would not be appropriate since the amount the Tenant receives from her all her sources of income has proven not to be not enough to cover the monthly rent, and the arrears are in excess of an amount that would allow for an equitable repayment plan.

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:**
 1. \$25,836.00 if the payment is made on or before December 31, 2022. See Schedule 1 for the calculation of the amount owing.

OR

 2. \$28,686.00 if the payment is made on or before January 8, 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 8, 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 8, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$20,952.03. 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 \$93.70 per day for the use of the unit starting December 10, 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 8, 2023, the Tenant will start to owe interest. This will be simple interest calculated from January 9, 2023 at 5.00% annually on the balance outstanding.
8. If the unit is not vacated on or before January 8, 2023, then starting January 9, 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 9, 2023.

December 19, 2022

Date Issued

Alicia Johnson
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 9, 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 December 31, 2022

| | |
|--|--------------------|
| Rent Owing To December 31, 2022 | \$25,650.00 |
| 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 | \$25,836.00 |

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before January 8, 2023

| | |
|--|--------------------|
| Rent Owing To January 31, 2023 | \$28,500.00 |
| 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 | \$28,686.00 |

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

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|--|--------------|
| Rent Owing To Hearing Date | \$23,643.30 |
| 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 | - \$2,850.00 |
| Less the amount of the interest on the last month's rent deposit | - \$27.27 |
| 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 | \$20,952.03 |
| Plus daily compensation owing for each day of occupation starting December 10, 2022 | \$93.70 (per day) |