



Order under Section 69 Residential Tenancies Act, 2006

Citation: Dentonia Court v Assefa, 2022 ONLTB 14474

Date: 2022-12-16

File Number: LTB-L-011690-22

In the matter of: 201, 20 TEESDALE PL
SCARBOROUGH ON M1L1L1

Between: Dentonia Court Landlord

And

Efrem Assefa Tenant

Dentonia Court (the 'Landlord') applied for an order to terminate the tenancy and evict Efrem Assefa (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on August 31, 2022.

The Landlord agent Arnold Agulnik, the Landlord's representative Mark Ciobotaru 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 \$1,897.50. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$62.38. This amount is calculated as follows: $\$1,897.50 \times 12$, divided by 365 days.
5. The Tenant has paid \$937.50 to the Landlord since the application was filed.
6. The rent arrears owing to August 31, 2022 are \$18,840.00.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$1,875.00 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.
9. Interest on the rent deposit, in the amount of \$30.08 is owing to the Tenant for the period from May 1, 2021 to August 31, 2022.

10. The Landlord seeks a standard, voidable, eleven-day order.

Section 82 Claims – Mice Infestation

Tenant's Evidence

11. The Tenant sought to raise his claims pursuant to section 82 of the Act because of the mice infestation he had in his rental unit. The Tenant requested an abatement of rent for this issue.
12. I proceeded to hear the Tenant's claims under section 82 as the Landlords indicated they were prepared to proceed.
13. The Tenant testified that he first informed the Landlord on September 14, 2021, at 12:27 am about a mice infestation in his unit. The Tenant emailed the Landlord on September 15, 2021, October 14, 2021, and November 10, 2021, claiming that the mice infestation is ongoing and requires treatment in his unit. The Tenant described finding the mice everywhere in the unit, including the kitchen, bedrooms, dining and living space, washroom, and closet and multiplying quickly.
14. The Tenant claim that the mice infestation has affected his children, who refuse to eat in the unit. The Tenant testified that he has a newborn who can not play on the floor due to mice excrement. The Tenant testified that he has an autistic son who is afraid of mice and can not sleep because he thinks the mice could crawl over him in his bed while asleep.

Landlord's Evidence

15. The Landlord submitted into evidence a copy of the invoices and treatment chart completed by Pest Control+. The invoices show that the Landlord hired Pest Control+ to treat the unit on September 20, 2021, October 15, 2021, November 02, 2021, November 08, 2021, November 25, 2021, December 10, 2021, December 29, 2021, January 11, 2022, February 01, 2022, February 25, 2022, and March 15, 2022.
16. The service report confirmed that the Pest Control+ technicians placed soft bait and glue boards around the kitchen, underneath the sink, and behind the refrigerator. The technicians baited the access door to the toilet, closed tight all gaps around the radiators, and placed baits underneath all the bedroom, living and dining room risers.

Analysis:

17. In the best interests of tenants and landlords, mice infestations must be dealt with in a timely and effective manner, given the mice's propensity to spread quickly. Based on the evidence and testimonies before me, I find on the balance of probabilities that the Landlord took reasonable steps to address the issues. The evidence shows that the technician has consistently attended to and provided treatments to the rental unit. The evidence also shows that the Landlord offered the Tenant a new unit to resolve the issue, but the Tenant refused, claiming that a friend informed him that the infestation was worse in the new unit.

18. Further, multiple reports from the pest control company and the additional statement from the technician suggest there was no evidence of an ongoing serious infestation. I find that the Tenant's testimonies have not proven on a balance of probabilities that the Landlord failed to meet his obligations under subsection 20(1) of the Act with respect to the alleged ongoing mice infestation.

Relief from Eviction

19. 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 16, 2023 pursuant to subsection 83(1)(b) of the Act.
20. The Tenant did not dispute the rent arrears of \$18,840.00. The Tenant submitted that he had financial difficulties paying the rent because he had not worked since 2018. The Tenant submitted that he receives Ontario works benefits of \$1,300.00 and \$1,800.00 from Child Tax benefits.
21. The Landlord expressed doubt about the Tenants' ability to pay \$18,840.00 arrears because it is significant, and the repayment plan seems unrealistic and may put the Tenant in further financial distress.
22. On balance, I find a delay eviction is warranted given the Tenant's family size. Since the hearing was in August 2022, and the order is being issued in December 2022, I do not find a further delay to be reasonable.

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:**
 - \$26,616.00 if the payment is made on or before December 31, 2022. See Schedule 1 for the calculation of the amount owing.

OR

 - \$28,513.50 if the payment is made on or before January 16, 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 16, 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 16, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$17,120.92. 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 \$62.38 per day for the use of the unit starting September 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 December 27, 2022, the Tenant will start to owe interest. This will be simple interest calculated from December 28, 2022 at 2.00% 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 January 16, 2023, then starting January 17, 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 January 17, 2023.

2022 ONLTB 14474 (CanLII)

December 16, 2022
Date Issued

Percy Laryea
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 17, 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	\$27,367.50
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$937.50
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	\$26,616.00

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before January 16, 2023

Rent Owing To January 31, 2023	\$29,265.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$937.50
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	\$28,513.50

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

Rent Owing To Hearing Date	\$19,777.50
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$937.50
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	- \$1,875.00
Less the amount of the interest on the last month's rent deposit	- \$30.08
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	\$17,120.92
Plus daily compensation owing for each day of occupation starting September 1, 2022	\$62.38 (per day)