



Order under Section 69 Residential Tenancies Act, 2006

Citation: Puri v Balogh, 2022 ONLTB 14128

Date: 2022-12-13

File Number: LTB-L-031313-22

In the matter of: 9 HALLCROWN CRT
Brampton ON L6S2A7

Between: Kuljeet Singh Puri Landlord

And

Christine Balogh Tenant

Kuljeet Singh Puri (the 'Landlord') applied for an order to terminate the tenancy and evict Christine Balogh (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on October 26, 2022.

The Landlord's Representative Karanjit Singh Bhathal and the Tenant attended the hearing.

Determinations:

Adjournment Request

1. The Tenant sought an adjournment of the hearing because she wanted to rely on her banking records to show that she sent \$8,400.00 by auto deposit to an email address she believed to belong to the Landlord, but that was not the Landlord's email address. The Tenant testified that she does not have online banking and she had been sick with Covid-19 in the weeks leading up to the hearing and could not leave her home to get her banking records from the bank.
2. The Tenant testified that she testified positive for Covid-19 sometime between October 5-10, 2022. The Tenant testified that as of October 26, 2022, the day of the hearing, she was still too ill to leave her apartment.
3. I denied the adjournment request but indicated that I would hear the Tenant's oral testimony about the bank transfers she made and allow her to submit her banking records as post-hearing submissions. I indicated to both parties that I would issue an interim order indicating the deadline by which the Tenant had to do that and the email address the Tenant could send it to.
4. On November 8, 2022 I issued that interim order. The interim order was mailed instead of emailed to the parties. According to rule 3.9 of the Board's Rules of Procedure a document is considered mailed 5 days after it is sent. This means that my interim order was deemed served on the Tenant as of November 13, 2022.

5. On November 15, 2022 the Tenant emailed the Board and indicated that she only received the Interim Order on that date.
6. At the hearing I was clear to the parties that I was going to accept the Tenant's banking records as post hearing submissions. I indicated to the parties that I would release an interim order with instructions about where to submit the post-hearing submissions and the deadline by which the Tenant was to do.
7. I am not going to extend the deadline for the Tenant to provide her banking records for the following reasons. The Tenant was aware that she was permitted to submit her banking records as post-hearing submissions as of the October 26, 2022 hearing date. At anytime between the hearing date and the issuance of the interim order the Tenant could have gone to her bank to retrieve the documents. She then could have submitted the documents once she received my instructions and deadline. Additionally, the Tenant is deemed to have received the interim order on November 13, 2022 which would have given her two full days to go to the bank and retrieved the documents she has been aware that she needs since the notice of hearing was emailed to her on October 4, 2022. I am also not satisfied with the Tenant's bald assertion that she only received the notice on November 15, 2022 as no details were provided in the email that would indicate why the Tenant's mail might have been delayed. The Tenant also could have attached her banking records on November 15, 2022 when she emailed the Board and her email provides no explanation as to why she could not do so on that date. Finally, the Tenant claimed at the hearing that she did not have online banking, yet the payments she claimed to have made were sent by email. It's not clear why the Tenant needs to physically go into the bank to retrieve records that would have an electronic record.
8. The Tenant also sought an adjournment of the hearing to file a Tenant application. The Landlord's application proceeding does not prohibit the Tenant from filing her own application and I was not satisfied that the applications needed to be heard together. As such, I denied the adjournment request on that basis.

The Application

9. 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.
10. As of the hearing date, the Tenant was still in possession of the rental unit.
11. The lawful rent is \$2,100.00. It is due on the 1st day of each month.
12. Based on the Monthly rent, the daily rent/compensation is \$69.04. This amount is calculated as follows: \$2,100.00 x 12, divided by 365 days.
13. The Tenant testified at the hearing that she paid \$8,400.00 towards the rent since the application was filed. At the hearing the Tenant could not tell me what email address she sent the rent payments to. The Landlord's position is that the Tenant has all the required information to make rent payments. I found the Tenant to be incredible because she was not able to provide the email address she sent the money to. The email address that she sent the money to is an extremely important piece of information that the Tenant is telling

the truth should have been able to provide. As such, I accept on a balance of probabilities that the Tenant has not made any payments since the application was filed.

14. The rent arrears owing to October 31, 2022 are \$23,100.00.
15. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
16. The Landlord's Representative indicated that there is no rent deposit on file. The Tenant interrupted the Landlord's Representative at that time he was explaining this and said that there is. I indicated to the Tenant that she should not interrupt the Landlord's Representative while he was presenting his evidence, but that she could testify about the rent deposit when it was her turn to testify. Despite these instructions, the Tenant provided no testimony or evidence about the existence of a rent deposit when it was her turn to testify.
17. Despite the Tenant providing the testimony out of turn I will consider her assertion that there was a rent deposit. The Landlord filed their application on June 6, 2022 and clearly indicated on that application that there was no last month's rent deposit. Despite the Tenant being on notice since that date that the Landlord would be alleging there was no last month's rent deposit, the Tenant did not provide any supporting documentation that a rent deposit was in fact paid. I also have credibility concerns about the Tenant's testimony for the reason stated previously. As such, I accept on a balance of probabilities that there is no last month's rent deposit.

Relief from Eviction

18. The Tenant requested relief from eviction in the form of a repayment plan. The Tenant testified that she is appealing a financial aid decision that may result in her receiving \$16,000.00 and that she could pay off the rest of the arrears on a monthly basis. I do not think it would be fair to impose a payment plan on the Landlord based on the possibility that the Tenant may have \$16,000.00 coming to her. Additionally, the outstanding arrears are extremely high and the Tenant has made no payments since the application was filed. As such, I am not satisfied that the Tenant would abide by the conditions of a repayment plan.
19. The Tenant also requested relief from eviction in the form of a postponement of the eviction by 90 days. The Tenant testified that she does not have the money to find somewhere else to live as she is not currently working. The Tenant also testified that she has a 14-year-old daughter living with her who has experienced trauma.
20. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. I have considered the Tenant's circumstances, but I have also considered the \$23,100.00 in arrears that are owing to the Landlord at the time of the hearing and ultimately decided that postponing the eviction would not be fair in the circumstances.

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:**
 - \$27,486.00 if the payment is made on or before December 31, 2022. See Schedule 1 for the calculation of the amount owing.

OR

 - \$29,586.00 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 3, 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 3, 2023.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$22,981.04. 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 \$69.04 per day for the use of the unit starting October 27, 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 24, 2022, the Tenant will start to owe interest. This will be simple interest calculated from December 25, 2022 at 4.00% annually on the balance outstanding.
8. If the unit is not vacated on or before January 3, 2023, then starting January 4, 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 4, 2023.

December 13, 2022
Date Issued

Amanda Kovats
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	\$27,300.00
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
Total the Tenant must pay to continue the tenancy	\$27,486.00

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	\$29,400.00
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
Total the Tenant must pay to continue the tenancy	\$29,586.00

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

Rent Owing To Hearing Date	\$22,795.04
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
Total amount owing to the Landlord	\$22,981.04
Plus daily compensation owing for each day of occupation starting October 27, 2022	\$69.04 (per day)