



**Order under Section 69
Residential Tenancies Act, 2006**

Citation: Victoria Park Community Homes v Caceres, 2022 ONLTB 14027

Date: 2022-12-08

File Number: LTB-L-009509-22

In the matter of: 23, 125 QUEEN VICTORIA DR
HAMILTON ON L8W2C1

Between: Victoria Park Community Homes Landlord

And

Edna Caceres Tenant

Victoria Park Community Homes (the 'Landlord') applied for an order to terminate the tenancy and evict Edna Caceres (the 'Tenant') because:

- the Tenant has been persistently late in paying the Tenant's rent.

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

This application was heard by videoconference on November 3, 2022.

Only the Landlord's Legal Representative, S. Lange attended the hearing.

As of 10:05 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. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy the claim for compensation in the application. Therefore, the tenancy is terminated.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. N8 Notice of Termination

On February 10, 2022, the Landlord gave the Tenant an N8 notice of termination with a termination date of April 30, 2022. The notice of termination contains the following allegations:

Persistently Late

The Tenant has persistently failed to pay the rent on the date it was due. The rent is due on the first day of each month. The rent has been paid late 6 times in the past 6 months.

4. Since the N8 Notice was served to the Tenant, the Tenant has continued to pay rent late each month. Rent from March 2022 until November 2022 was paid late.

Daily compensation, NSF charges, rent deposit

5. The Tenant was required to pay the Landlord \$6,818.07 in daily compensation for use and occupation of the rental unit for the period from May 1, 2022 to November 3, 2022.
6. Based on the Monthly rent, the daily compensation is \$36.46. This amount is calculated as follows: \$1,109.00 x 12, divided by 365 days.
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 \$1,106.20 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$11.17 is owing to the Tenant for the period from January 1, 2021 to November 3, 2022.
9. In accordance with subsection 106(10) of the *Residential Tenancies Act, 2006*, (the 'Act') the last month's rent deposit shall be applied to the rent for the last month of the tenancy.
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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The Tenant was not present at the hearing to testify to her personal circumstances.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before December 19, 2022.
2. If the unit is not vacated on or before December 19, 2022, then starting December 20, 2022, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. 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 December 20, 2022.
4. The Tenant shall pay to the Landlord \$5,700.71, less any payments made by the Tenant, which represents compensation for the use of the unit from May 1, 2022 to November 3, 2022, less the rent deposit and interest the Landlord owes on the rent deposit.
5. The Tenant shall also pay the Landlord compensation of \$36.46 per day for the use of the unit starting November 4, 2022 until the date the Tenant moves out of the unit.
6. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.

7. The total amount the Tenant owes the Landlord is \$5,886.71, less any payments made by the Tenant.
8. If the Tenant does not pay the Landlord the full amount owing on or before December 19, 2022, the Tenant will start to owe interest. This will be simple interest calculated from December 20, 2022 at 4.00% annually on the balance outstanding.

December 8, 2022
Date Issued

Emily Robb
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 of the Tenant expires on June 20, 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.