



Order under Section 69 Residential Tenancies Act, 2006

Citation: Boardwalk General Partnership v Legere, 2022 ONLTB 13449

Date: 2022-12-06

File Number: LTB-L-022173-22

In the matter of: 501, 920 COURTLAND AVE E
Kitchener ON N2C1K5

Between:	Boardwalk General Partnership	Landlord
	and	
	Carrie Legere Joel Legere	Tenants

Boardwalk General Partnership (the 'Landlord') applied for an order to terminate the tenancy and evict Carrie Legere and Joel Legere (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on November 7, 2022.

The Landlord did not attend the hearing but was represented by Nathan Carver. The Tenants attended the hearing and were self-represented.

Determinations:

1. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenants 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 Tenants were still in possession of the rental unit.
3. The lawful rent is \$2,152.99. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$70.78. This amount is calculated as follows: \$2,152.99 x 12, divided by 365 days.
5. The Tenants have paid \$3,550.00 to the Landlord since the application was filed.
6. The rent arrears owing to November 30, 2022 are \$12,069.93.
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 \$1,999.00 from the Tenants 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 \$36.54 is owing to the Tenant for the period from May 1, 2021 to November 7, 2022.

Section 83 considerations

Tenants' evidence

10. The Tenants testified they lived in the rental unit for approximately 2.5 years to date. They do not dispute the arrears claimed, however, explained that they fell into arrears during the pandemic due to the impact COVID-19 had on them and their work. Elaborating further, they explained that they had been infected multiple times during the pandemic as they continued to work in-person which resulted in work disruption and losses of income.
11. The Tenants testified that their monthly income is approximately \$4,800.00 per month. During the hearing, the Board undertook a review of the Tenants' monthly expenses revealing the following and, based on this review, I am satisfied that the tenancy remains financially viable.
12. The Tenants proposed that they would be able to enter into a payment arrangement by first making an immediate lump sum payment of \$3,000.00, and secondly, making regular monthly payments of \$500.00 towards the arrears. The Tenants testified to the impact an eviction would have on them stating that such would have an adverse impact on their daughter who attends a local school she is settled in. They indicated that they are motivated to address the arrears but feel overwhelmed and in need of direction from a Board order.

Landlord's evidence

13. The Landlord's legal representative explained that a delayed or denied eviction would be prejudicial to the Landlord due to the large outstanding balance owed. Explaining further, the legal representative stated that the Landlord has significant payments to make towards mortgage expenses, services needed to maintain the property, as well salaries for staff. Furthermore, from June 30, 2022, through to October 25, 2022, Landlord's staff and the legal representative's office reached out to the Tenants to arrange a payment arrangement without success, leaving the representative to question the Tenants ability to comply with their proposal such that an eviction is the most appropriate remedy for this dispute.
14. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenant and find that it would not be unfair to grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.
15. I accept the Tenants' evidence that they fell into arrears due to the impact multiple infections with COVID-19 had on their ability to work without disruption, to earn stable income, and meet their rent payment obligations. I am also satisfied that the tenancy continues to be financially viable as the Tenants have the financial means such that, given more time, they can address the outstanding balance. Finally, I have also considered the

impact that an eviction would have on the Tenants' child, as well as the prejudice that the Landlord will experience as a result of the payment plan.

It is ordered that:

1. The Tenants shall pay to the Landlord \$12,255.93, which represents the arrears of rent (\$12,069.93) and costs (\$186.00) outstanding for the period ending November 30, 2022.
2. The Landlord's application for eviction of the Tenants is denied on the condition that:
 - (a) The Tenants shall make the following payments to the Landlord in respect of the monies owing under paragraph 1 of this order:
 1. On or before December 15, 2022, the Tenants shall pay the Landlord \$3,000.00;
 2. Beginning on or before December 20, 2022, the Tenants shall pay the Landlord \$500.00;
 3. The Tenants shall continue to pay the Landlord \$500.00 per month on or before the 15th day of each month during the period of January 20, 2023, to May 15, 2024; and
 4. The Tenants shall pay \$255.93 on or before June 15, 2024.
 - (b) The Tenants shall also pay the Landlord the lawful monthly rent as it becomes due on or before the 1st day of the month starting January 1, 2023 until the arrears are paid in full.
 - (c) If not already paid, the Tenants shall pay rent for December 2022 on or before December 15, 2022.
3. If the Tenants fail to make any of the payments in accordance with paragraph 2, and by the dates required, then:
 - (a) The Landlord may, without notice to the Tenant, apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenants, and for the payment of any new arrears of rent and NSF charges not already ordered under paragraph 1 of this order. The Landlord must make the application within 30 days of a breach of a condition set out in paragraph 2 of this order.

(b) The balance owing under paragraph 1 of this order shall become payable on the day following the date of default. The monies shall bear interest at the post-judgement interest rate determined under subsection 207(7) of the Act.

December 6, 2022
Date Issued

Emile Ramlochan
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.