



Order under Section 69 Residential Tenancies Act, 2006

Citation: Metcap Living Management Inc v Aziz-Neilsen, 2022 ONLTB 13905

Date: 2022-12-05

File Number: LTB-L-023672-22

In the matter of: 408, 186 CHURCH ST E
BRAMPTON ON L6V1H3

Between: Metcap Living Management Inc Landlord

And

David Allis, Tenants
Gauri Bhavani Aziz-Neilsen

Metcap Living Management Inc (the 'Landlord') applied for an order to terminate the tenancy and evict David Allis, Gauri Bhavani Aziz-Neilsen (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

The Landlord also claimed charges related to NSF cheques.

This application was heard by videoconference on November 8, 2022.

The Landlord's Legal Representative S. Enriquez and the Tenant D. Allis attended the hearing.

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 \$1,689.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$55.53. This amount is calculated as follows: \$1,689.00 x 12, divided by 365 days.
5. The Tenants have not made any payments since the application was filed.
6. The rent arrears owing to November 30, 2022 are \$13,512.00.
7. The Landlord is entitled to \$60.00 to reimburse the Landlord for administration charges and \$21.00 for bank fees the Landlord incurred as a result of 3 cheque given by or on behalf of the Tenants which was returned NSF.

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8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlord collected a rent deposit of \$1,689.00 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.
10. Interest on the rent deposit, in the amount of \$17.33 is owing to the Tenants for the period from November 1, 2021 to November 8, 2022.

Section 83 considerations

11. 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 08, 2023 pursuant to subsection 83(1)(b) of the Act.
12. The Tenant testified that his partner, the other Tenant, left the rental unit due to some family disturbances, and he is left tending to their 11-month son alone. The Tenant got full custody of the son 2 weeks ago and he has applied to Peel Region Housing for help with the rent arrears. He is also waiting for the Child Tax Benefit to help with the rent.
13. Given his current circumstances and sources of income, the Tenant can barely pay the rent let alone pay off any rent arrears. However, I am willing to give him some additional time to attempt to obtain addition income from the sources he has applied to. I recognise the high rent arrears are prejudicial to the Landlord, but the Landlord is holding a rent deposit which can be applied to the last month of the tenancy.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants void this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$15,468.00 if the payment is made on or before December 31, 2022. See Schedule 1 for the calculation of the amount owing.

OR

- \$17,157.00 if the payment is made on or before January 8, 2023. See Schedule 1 for the calculation of the amount owing.
3. The Tenants may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenants have 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 Tenants may only make this motion once during the tenancy.
 4. **If the Tenants do not pay the amount required to void this order the Tenants must move out of the rental unit on or before January 8, 2023.**

5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$10,827.91. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application and unpaid NSF charges. The rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenants. See Schedule 1 for the calculation of the amount owing.
6. The Tenants shall also pay the Landlord compensation of \$55.53 per day for the use of the unit starting November 9, 2022 until the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before January 8, 2023, the Tenants will start to owe interest. This will be simple interest calculated from January 16, 2023 at 4.00% 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 5, 2022
Date Issued

Sheena Brar
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 June 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.

Schedule 1
SUMMARY OF CALCULATIONS

A. Amount the Tenants 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	\$15,201.00
Application Filing Fee	\$186.00
NSF Charges	\$81.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenants for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants are entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$15,468.00

A. Amount the Tenants 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	\$16,890.00
Application Filing Fee	\$186.00
NSF Charges	\$81.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenants for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants are entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$17,157.00

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

Rent Owing To Hearing Date	\$12,267.24
Application Filing Fee	\$186.00
NSF Charges	\$81.00
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	- \$1,689.00
Less the amount of the interest on the last month's rent deposit	- \$17.33
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	\$10,827.91
Plus daily compensation owing for each day of occupation starting November 9, 2022	\$55.53 (per day)