



Order under Section 69
Residential Tenancies Act, 2006

Citation: Dar v Spina, 2022 ONLTB 13492

Date: 2022-12-02

File Number: LTB-L-007300-22

In the matter of: LOWER, 1002 DAWSON RD
WINDSOR ON N8Y4A4

Between: Mubashar Dar Landlord

And

Collette Spina Tenant

Mubashar Dar (the 'Landlord') applied for an order to terminate the tenancy and evict Collette Spina (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes (L1 Application); and the Tenant has been persistently late in paying the Tenant's rent; (L2 Application).

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

Only the Landlord's Representative Brenell Dean attended the hearing.

As of 10:03a.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the Board. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

L1 Application – Non-Payment of Rent

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 \$900.00. It is due on the 1 day of each Monthly.
4. Based on the Monthly rent, the daily rent/compensation is \$29.59. This amount is calculated as follows: \$900.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.

9. The rent arrears owing to October 31, 2022 are \$9,000.00.
11. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
14. The Landlord collected a rent deposit of \$900.00 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.
15. Interest on the rent deposit, in the amount of \$9.00 is owing to the Tenant for the period from September 1, 2021 to October 31, 2022.

L2 Application – Persistent Late Payment of Rent

16. The Landlord requested to withdraw their L2 application as I indicated to them that their L1 application had been made out.

Relief from Eviction

17. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including that the Landlord tried to negotiate a repayment agreement with the Tenant on Jan 20, 2022 and October 24, 2022 and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. Additionally, the Tenant did not attend the hearing to provide any evidence that would be relevant to my analysis under section 83 of the Act.

It is ordered that:

L1 Application – Non-Payment of Rent

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 Board in trust:**
 - \$10,986.00 if the payment is made on or before December 13, 2022. See Schedule 1 for the calculation of the amount owing.
3. The Tenant may also make a motion at the Board 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 December 13, 2022 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 December 13, 2022.**

5. If the Tenant does not void the order, the Tenant owes the Landlord \$8,277.00. This amount includes rent arrears owing up to the date of the hearing and the Landlord's costs. 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 \$29.59 per day for the use of the unit starting November 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 13, 2022, the Tenant will start to owe interest. This will be simple interest calculated from December 14, 2022 at 4.00% annually on the balance outstanding.
10. If the unit is not vacated on or before December 13, 2022, then starting December 14, 2022, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
11. 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 14, 2022.

L2 Application – Persistent Late Payment of Rent

12. The Landlord's L2 application is withdrawn.

December 2, 2022
Date Issued

Amanda Kovats
Member, Landlord and Tenant Board

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 14, 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 13, 2022

Rent Owing To December 31, 2022	\$ 10,800.00
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 Board since the application was filed	- \$ 0.00
Total the Tenant must pay to continue the tenancy	\$ 10,986.00

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

Rent Owing To Hearing Date	\$ 9,000.00
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 Board since the application was filed	- \$ 0.00
Less the amount of the last month's rent deposit	- \$ 900.00
Less the amount of the interest on the last month's rent deposit	- \$ 9.00
Total amount owing to the Landlord	\$ 8,277.00
Plus daily compensation owing for each day of occupation starting November 1, 2022:	\$ 29.59 (per day)