



Order under Section 69 Residential Tenancies Act, 2006

Citation: 82 Millside Drive Limited c/o Realstar Management Partnership v Salamat, 2022
ONLTB 13005

Date: 2022-12-02

File Number: LTB-L-021299-22

In the matter of: 104, 82 MILLSIDE DR
MILTON ON L9T4A1

Between: 82 Millside Drive Limited c/o Realstar Management Partnership Landlord

And

Andrea Wright, Shane Salamat Tenant

82 Millside Drive Limited c/o Realstar Management Partnership (the 'Landlord') applied for an order to terminate the tenancy and evict Andrea Wright, Shane Salamat (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on October 27, 2022.

The Landlord's legal representative, Faith McGregor, and both the Tenants, attended the hearing.

Determinations:

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 \$1,649.45. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$54.23. This amount is calculated as follows: \$1,649.45 x 12, divided by 365 days.
5. The Tenant has paid \$11,260.00 to the Landlord since the application was filed.
6. The rent arrears owing to October 31, 2022 are \$813.95.
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 \$1,629.90 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.
9. Interest on the rent deposit, in the amount of \$89.47 is owing to the Tenant for the period from August 1, 2018 to October 27, 2022.

RELIEF FROM EVICTION

10. The arrears are not in dispute.
11. The position of the Tenants is that they have made substantial payments since the application was filed by the Landlord, and have been in good faith working to pay down the arrears. The Tenants asked for a five month repayment plan to pay down the arrears. The Tenants declined to submit their financial information for my consideration on a repayment plan, but requested for my consideration an extended eviction date of December 31, 2022.
12. The position of the Landlord is that the Tenants do not have a consistent payment history and have been in arrears since 2020. The Landlord has been in regular communication with the Tenants regarding the current arrears, the arrears have been outstanding for some time, and the arrears owed are a small amount that the Tenant's should be able to pay off quickly. The Landlord rejected the Tenant's offer for a five month repayment plan and the Landlord offered an extended eviction date of November 30, 2022.
13. For the following reasons I am granting the Tenant's request for an extended eviction. The Tenant's have been in the unit since 2018 and this is a long tenancy. The Tenants submitted at the hearing that an extended date to the end of December 2022 would allow them time to borrow the money to pay the arrears and get their finances in order, allowing them to preserve the tenancy and repay the Landlord. Given that the arrears owing are less than one month's rent and the Tenant's have been long term residents their request for an extended date is granted.
14. 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 2, 2023 pursuant to subsection 83(1)(b) of the Act.
15. I have considered all of the evidence presented at the hearing and all of the oral testimony and although I may not have referred to each piece of evidence individually or referenced all of the testimony, I have considered it when making my determinations.
16. This order contains all reasons for the determinations and order made. No further reasons will be issued.

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:
 - \$4,298.85 if the payment is made on or before December 31, 2022. See Schedule 1 for the calculation of the amount owing.

OR

 - \$5,948.30 if the payment is made on or before January 2, 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 2, 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 2, 2023
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$(904.66). This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. 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 \$53.59 per day for the use of the unit starting October 28, 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.
8. As of the date of the hearing, the amount of the rent deposit and interest the Landlord owes on the rent deposit exceeds the arrears of rent, compensation and the cost of filing the application the Landlord is entitled to by \$904.66. See Schedule 1 for the calculation of the amount owing. However, the Landlord is authorized to deduct from the amount owing to the Tenant \$53.59 per day for compensation for the use of the unit starting October 28, 2022 until the date the Tenant moves out of the unit.
9. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
10. If the unit is not vacated on or before January 2, 2023, then starting January 3, 2023, 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 January 3, 2023.

December 2, 2022

Date Issued

Greg Brocanier

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 3, 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.

*Note: When the Board directs payment-out, the Canadian Imperial Bank of Commerce will issue a cheque to the appropriate party named in this notice. The cheque will be in the amount directed plus any interest accrued up to the date of the notice

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	\$15,372.85
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$11,260.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
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	- \$
Total the Tenant must pay to continue the tenancy	\$4,298.85

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before January 2, 2023

Rent Owing To January 31, 2023	\$17,022.30
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$11,260.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
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 the Tenant must pay to continue the tenancy	\$5,948.30

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

Rent Owing To Hearing Date	\$11,888.71
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$11,260.00
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	- \$1,629.90
Less the amount of the interest on the last month's rent deposit	- \$89.47
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	- \$
Total amount owing to the Landlord	\$(904.66)
Plus daily compensation owing for each day of occupation starting October 28, 2022	\$53.59 (per day)