



Order under Section 69 Residential Tenancies Act, 2006

Citation: Metcap Living Management Inc v Burton, 2022 ONLTB 12984

Date: 2022-11-30

File Number: LTB-L-017945-22

In the matter of: 505, 96 JAMESON AVE
TORONTO ON M6K2X7

Between: Metcap Living Management Inc

Landlord

And

Christopher Tomas Burton, Victoria Lee

Tenants

Metcap Living Management Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Christopher Tomas Burton, Victoria Lee (the 'Tenants') because the Tenants did not pay the rent that the Tenants owes.

This application was heard by videoconference on October 11, 2022.

The Landlord's Legal Representative, M. Forrester and the Tenant, C. Burton 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 was still in possession of the rental unit.
3. The lawful rent is \$1,688.67. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$55.52. This amount is calculated as follows: $\$1,688.67 \times 12$, divided by 365 days.
5. The Tenants has paid \$8,400.00 to the Landlord since the application was filed.
6. The rent arrears owing to October 31, 2022 are \$3,811.37.
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 \$1,685.84 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 \$15.74 is owing to the Tenants for the period from January 1, 2022 to October 11, 2022.

Relief from Eviction

10. The Tenant testified that he was working in the service industry and due to Covid-19, his hours did not return to full time. He found another job, but that did not work out. He is now employed full time for the past 4 months working from home and has a roommate that contributes to the rent. The Tenant has lived in the unit for 5 years.
11. The Tenant suggested a payment plan that would see the arrears paid off in approximately 11 months.
12. The Landlord is seeking a standard order.
13. Based on the evidence before me, I find that the payment plan that the Tenant suggests is reasonable and affordable in the circumstances. The Tenant has lived in the unit for approximately 5 years and has been making payments towards the rent since the application was filed. Although the payment plan may occasion some prejudice to the Landlord, I find that the prejudice to the Tenant is greater. The Tenant testified if he were to be evicted, he has nowhere to go. If the Tenant fails to make a payment pursuant to this order, the Landlord can enforce their rights pursuant to section 78 of the Act.
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 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.

It is ordered that:

1. The Tenant shall pay to the Landlord \$5,500.04 for arrears of rent up to November 30, 2022 and \$186.00 in costs. The total amount the Tenant owes to the Landlord is \$5,686.04. less any payments made since the hearing.
2. The Tenant shall pay to the Landlord the amount set out in paragraph 1 in accordance with the following schedule:
 - Starting on December 17, 2022, the Tenant shall pay to the Landlord \$360.00 on or before the 17th day of every month until February 17, 2024.
 - On or before March 17, 2024, the Tenant shall pay to the Landlord \$286.04.
3. The Tenant shall also pay to the Landlord new rent on time and in full as it comes due and owing for the period starting December 1, 2022 to March 1, 2024, or until the arrears are paid in full, whichever date is earliest.

4. If the Tenant fails to make any one of the payments in accordance with this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenant to the Landlord pursuant to paragraph 1 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenant, apply to the LTB within 30 days of the Tenant's breach pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenant and requiring that the Tenant pay any new arrears, NSF fees and related charges that became owing after November 30, 2022

November 30, 2022

Date Issued

Emily Robb

Member, Landlord and Tenants 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.