



Order under Section 69 Residential Tenancies Act, 2006

Citation: Belzner v Yerkie, 2022 ONLTB 13387

Date: 2022-11-29

File Number: LTB-L-031223-22

In the matter of: Unit 1, 1365 Redfern Street
Sudbury ON P3A3S8

Between: John Oudkerk, Louanne Belzner

Landlord

And

Brandon Yerkie, Michelle Yerkie

Tenant

John Oudkerk, Louanne Belzner (the 'Landlord') applied for an order to terminate the tenancy and evict Brandon Yerkie, Michelle Yerkie (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on October 26, 2022.

The Landlords and the Tenants 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 \$2,000.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$65.75. This amount is calculated as follows: \$2,000.00 x 12, divided by 365 days.
5. The Tenants have paid \$6,000.00 to the Landlords since the application was filed.
6. The rent arrears owing to October 31, 2022 are \$8,000.00. The Tenants indicated the arrears were only \$6000.00, however no documentary evidence was produced in support of the contested \$2000 June 2022 payment which the Tenants allegedly made by way of cash or e-transfer. In this regard, I prefer the evidence of the Landlords, as supported by their detailed rent ledger, that there was no payment made for the month of June 2022.
7. The Landlords incurred costs of \$186.00 for filing the application and are entitled to reimbursement of those costs.

Section 83

8. Section 83 requires that I consider all the circumstances, including the Tenants' and the Landlords' situations to determine if it would be appropriate to grant section 83 relief from eviction.
9. The Landlords seek eviction, noting the arrears have increased and caused a strain.
10. The Tenants seeks to remain at the rental unit. The Tenant BY noted he had been laid off from his prior job but he recently started a new contract earning \$3800-4000/month. The Tenants live at the rental unit with their 2 children and BY noted that there are health issues within the family. BY further indicated he is in a position to pay back the arrears at the rate of \$500/month.
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 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 Tenants shall pay the Landlords \$8,186.00 for arrears up to October 31, 2022 and costs.
2. The Tenants shall pay to the Landlords the amount set out in paragraph 1 in accordance with the following schedule:
 - (i) The Tenants will make payments towards the arrears in the amount of \$500 per month on or before the 15th day of each month for the period starting December 15, 2022 to March 15 2024. This means that the Tenants will make payments of \$500.00 per month for the next 16 months
 - (ii) The final payment will be in the amount of \$186.00 and will be paid on or before April 15, 2024.
3. If not already paid, the Tenants shall pay to the Landlord the monthly rent for November 2022 and December 2022, on or before December 7, 2022.
4. The Tenants shall also pay to the Landlord new rent on time and in full as it comes due and owing for the period of January 1, 2023 through to April 1 2024, or until the arrears are paid in full, whichever date is earliest.
5. If the Tenants fail 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 Tenants to the Landlords pursuant to paragraph 1 of this order shall become immediately due and owing and the Landlords may, without notice to the Tenants, apply to the LTB within 30 days of the Tenants' breach pursuant to section 78 of the Act for an order terminating the tenancy

and evicting the Tenants and requiring that the Tenants pay any new arrears, NSF fees and related charges that became owing after October 31, 2022.

November 29, 2022
Date Issued

Peter Nicholson
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.