



Order under Section 69 Residential Tenancies Act, 2006

Citation: IMH Pool XX LP v Fraser, 2022 ONLTB 13431

Date: 2022-11-28

File Number: LTB-L-022627-22

In the matter of: 303, 7280 DARCEL AVE
MISSISSAUGA ON L4T3T7

Between:	IMH Pool XX LP	Landlord
	and	
	Karen Fraser Victor Fraser	Tenants

2022 ONLTB 13431 (CanLII)

IMH Pool XX LP (the 'Landlord') applied for an order to terminate the tenancy and evict Karen Fraser and Victor Fraser (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 did not attend the hearing but was represented by Halima Channiwala. The first-named Tenant attended the hearing and was self-represented.

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 \$2,163.65. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$71.13. This amount is calculated as follows: \$2,163.65 x 12, divided by 365 days.
5. The Tenants had paid \$12,577.65 to the Landlord since the application was filed.
6. The rent arrears owing to November 30, 2022 are \$11,037.82.
7. The Landlord is entitled to \$160.00 to reimburse the Landlord for administration charges the Landlord incurred as a result of 8 cheques given by or on behalf of the Tenants which was returned NSF.

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 \$2,138.00 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.
10. Interest on the rent deposit, in the amount of \$28.40 is owing to the Tenant for the period from October 1, 2021 to November 8, 2022.
11. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenant 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 to the Landlord \$13,662.47, which represents the arrears of rent (\$13,476.47) and costs (\$186.00) outstanding for the period ending November 30, 2022.
2. The Landlord's application for eviction of the Tenant is denied on the condition that:
 - (a) The Tenant shall make the following payments to the Landlord in respect of the monies owing under paragraph 1 of this order:
 1. Beginning on or before December 20, 2022, the Tenants shall pay the Landlord \$1,200.00;
 2. The Tenants shall continue to pay the Landlord \$1,200.00 per month on or before the 20th day of each month during the period of January 20, 2023, to October 20, 2023; and
 3. The Tenants shall pay \$462.47 on or before November 20, 2023.
 - (b) The Tenants shall also pay the Landlord the lawful monthly rent as it becomes due on or before the 1st day of the month starting December 1, 2022 until the arrears are paid in full.
3. If the Tenants fail to make any of the payments in accordance with paragraph 2, and by the dates required, then:
 - (a) The Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenants, and for the payment of any new arrears of rent and NSF charges not already ordered under paragraph 1 of this order. The Landlord must make the application within 30 days of a breach of a condition set out in paragraph 2 of this order.

- (b) The balance owing under paragraph 1 of this order shall become payable on the day following the date of default. The monies shall bear interest at the post-judgement interest rate determined under subsection 207(7) of the Act.

November 28, 2022

Date Issued

Emile Ramlochan

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.