



Order under Section 69 Residential Tenancies Act, 2006

Citation: Cieslak v Pickering, 2022 ONLTB 12869

Date: 2022-11-23

File Number: LTB-L-020097-22

In the matter of: 611-44 St. Joseph Street
Toronto, ON M4Y 2W4

Between: Honorata Cieslak Landlords
Mitchell Cieslak

And

Brett Pickering Tenant

Honorata Cieslak and Mitchell Cieslak (the 'Landlords') applied for an order to terminate the tenancy and evict Brett Pickering (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on October 25, 2022.

The Landlords and the Tenant attended the hearing. The Tenant spoke with Tenant Duty Counsel prior to the hearing.

Determinations:

1. The Landlords 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 \$1,598.90. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$52.57. This amount is calculated as follows: $\$1,598.90 \times 12$, divided by 365 days.
5. The Tenant has paid \$9,000.00 to the Landlords since the application was filed.
6. The rent arrears owing to October 31, 2022 are \$7,116.70.
7. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlords collected a rent deposit of \$1,580.00 from the Tenant and this deposit is still being held by the Landlords. 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 \$6.08 is owing to the Tenant for the period from July 1, 2022 to October 25, 2022.
10. The Tenant acknowledged the arrears and testified that he fell into arrears due to having contracted COVID-19 and not being able to make enough income to pay his rent.
11. The Tenant further alleged a number of maintenance issues with the unit including mould and various repairs that were ignored by the Landlords however, the Tenant did not file any evidence in advance of the hearing in order for me to consider his issues under s. 82 of the *Residential Tenancies Act, 2006* (the 'Act'). The Tenant was encouraged to file his own applications.
12. The Tenant testified that he planned on vacating the unit by November 1, 2022. The Landlords objected on the basis that the Tenant did not provide them with 60 days notice. This contradicts the Landlords' intentions with respect to this notice, as they are seeking eviction.
13. While the Tenant requested that the tenancy be terminated by November 1, 2022, the eviction will be extended until December 4, 2022.
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 December 4, 2022 pursuant to subsection 83(1)(b) of the Act.

It is ordered that:

15. The tenancy between the Landlords and the Tenant is terminated unless the Tenant voids this order.
16. **The Tenant may void this order and continue the tenancy by paying to the Landlords:**
 1. \$8,901.60 if the payment is made on or before November 30, 2022. See Schedule 1 for the calculation of the amount owing.

OR

 2. \$10,500.50 if the payment is made on or before December 4, 2022. See Schedule 1 for the calculation of the amount owing.
17. 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 December 4, 2022 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
18. **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 4, 2022.**
19. If the Tenant does not void the order, the Tenant shall pay to the Landlords \$5,431.97. 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 Landlords owe on the rent deposit are

deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.

20. The Tenant shall also pay the Landlords compensation of \$51.95 per day for the use of the unit starting October 26, 2022 until the date the Tenant moves out of the unit.
21. If the Tenant does not pay the Landlords the full amount owing on or before December 4, 2022, the Tenant will start to owe interest. This will be simple interest calculated from December 5, 2022 at 4.00% annually on the balance outstanding.
22. If the unit is not vacated on or before December 4, 2022, then starting December 5, 2022, the Landlords may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
23. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlords on or after December 5, 2022.

November 23, 2022

Date Issued

Jagger Benham

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 June 5, 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 November 30, 2022

Rent Owing To November 30, 2022	\$17,715.60
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlords since the application was filed	- \$9,000.00
Total the Tenant must pay to continue the tenancy	\$8,901.60

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before December 4, 2022

Rent Owing To December 31, 2022	\$19,314.50
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlords since the application was filed	- \$9,000.00
Total the Tenant must pay to continue the tenancy	\$10,500.50

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

Rent Owing To Hearing Date	\$15,832.05
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlords since the application was filed	- \$9,000.00
Less the amount of the last month's rent deposit	- \$1,580.00
Less the amount of the interest on the last month's rent deposit	- \$6.08
Total amount owing to the Landlords	\$5,431.97
Plus daily compensation owing for each day of occupation starting October 26, 2022	\$51.95 (per day)

