



Order under Section 69 Residential Tenancies Act, 2006

Citation: Rosenberg v Krane, 2022 ONLTB 12605

Date: 2022-11-23

File Number: LTB-L-012616-22

In the matter of: Unit 2, Main Floor, 42 ELWAY CRT
NORTH YORK ON M6B2N8

Between: Sam Rosenberg Landlord

And

Ron Krane Tenant

Sam Rosenberg (the 'Landlord') applied for an order to terminate the tenancy and evict Ron Krane (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on September 12, 2022. The Landlord, Landlord's legal representative J. Rosenberg and the Tenant 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 \$1,200.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$39.45. This amount is calculated as follows: \$1,200.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to September 30, 2022 are \$16,800.00.
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 \$1,200.00 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.
9. Interest on the rent deposit, in the amount of \$147.01 is owing to the Tenant for the period from July 29, 2014 to September 12, 2022.

2022 ONLTB 12605 (CanLII)

Relief from eviction

10. During the hearing, the Tenant testified that he lost his income due to the Covid-19 pandemic. He relied on the CERB and CRB federal income benefits, which discontinued in June 2021 and caused the ensuing arrears. He testified that he would like to remain in the unit which he has lived in since 2011. He proposed a payment plan on the basis of having received a job offer recently. Essentially, the payment plan proposed by the Tenant was \$1,200.00 a month until the arrears were paid in full (14 months).
11. The Landlord opposed the payment plan because he had already extended a gesture of good will by holding off filing the application for more than one year and the Tenant has made no payments toward the arrears since the filing of the application. The Tenant had only communicated to the Landlord of his job loss in November 2021, and had not communicated to the Landlord that he had a new job offer.
12. I canvassed the Tenant with respect to his income and expenses. At the time of the hearing, the Tenant testified that he had had zero income since June 2021. He was anticipating the start of his new job with an HVAC company on October 3, 2022, with a gross annual salary of \$60,000.00 and an expected net income of about \$3,750.00 monthly. The Tenant presented no evidence to support that he received an offer or accepted an employment position. The Tenant was unable to explain how he was able to pay for incidental monthly expenses such as electricity, phone and food since his CRB benefits ceased. He did acknowledge that his electricity bill is in arrears.
13. Based on the evidence before me and the quantum of arrears, I find that the tenancy is no longer viable. I say this because the arrears started to accrue before the Tenant's federal benefits ceased and at the time of the hearing, the Tenant still declared having zero income.
14. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act') and am sympathetic to the fact that the Tenant was without work due to the pandemic. I am also mindful that the tenancy is more than 11 years in duration. The delay in releasing my decision coupled with the inevitable delay for enforcement of the order during the holiday season will provide the Tenant with the relief that I find reasonable in the circumstances. Accordingly, I find that it would not be unfair to postpone the eviction until December 16, 2022 pursuant to subsection 83(1)(b) of the Act.

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:**
 - \$19,386.00 if the payment is made on or before November 30, 2022. See Schedule 1 for the calculation of the amount owing.

OR

- \$20,586.00 if the payment is made on or before December 16, 2022. 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 December 16, 2022 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 December 16, 2022**
 5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$14,912.39. 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 \$39.45 per day for the use of the unit starting September 13, 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 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.
 8. If the unit is not vacated on or before December 16, 2022, then starting December 17, 2022, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
 9. 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 December 17, 2022.

November 23, 2022

Date Issued

Donna Adams

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 17, 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	\$19,200.00
Application Filing Fee	\$186.00
Total the Tenant must pay to continue the tenancy	\$19,386.00

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before December 16, 2022

Rent Owing To December 31, 2022	\$20,400.00
Application Filing Fee	\$186.00
Total the Tenant must pay to continue the tenancy	\$20,586.00

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

Rent Owing To Hearing Date	\$16,073.40
Application Filing Fee	\$186.00
Less the amount of the last month's rent deposit	- \$1,200.00
Less the amount of the interest on the last month's rent deposit	- \$147.01
Total amount owing to the Landlord	\$14,912.39
Plus daily compensation owing for each day of occupation starting September 13, 2022	\$39.45 (per day)