



Order under Section 69 Residential Tenancies Act, 2006

Citation: Essiembre Consultant inc v Holt, 2022 ONLTB 12601

Date: 2022-11-23

File Number: LTB-L-017766-22

In the matter of: 45, 2280 ORIENT PARK DR
GLOUCESTER ON K1B4Z7

Between: Essiembre Consultant inc Landlord

And

Amber Thomas, Ryan Holt Tenants

Essiembre Consultant inc (the 'Landlord') applied for an order to terminate the tenancy and evict Amber Thomas, Ryan Holt (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

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

The Landlord's Legal Representative, K. Smith and the Tenants, R. Holt 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 \$1,825.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$60.00. This amount is calculated as follows: \$1,825.00 x 12, divided by 365 days.
5. The Tenants has paid \$5,800.00 to the Landlord since the application was filed.
6. The rent arrears owing to October 31, 2022 are \$8,275.00.
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 \$1,825.00 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 \$14.16 is owing to the Tenants for the period from February 18, 2022 to October 11, 2022.

Relief from Eviction

10. The Tenant testified that he had Covid in February and he lost his job. He has three young children, ages 2, 4, and 8 and his wife was staying home with the children at the time. The Tenant testified that he looked for work but was also having some physical and mental health challenges. He testified that his wife started working full time as a bartender and has been working for 3 months. Before his wife started working their only income was child tax credit.
11. The Tenant is proposing a payment plan that would see the arrears paid off in approximately 6 months. The Tenant testified that they have cut down on all their expenses and got rid of most services, so their monthly expenses are minimal.
12. The Landlord is seeking a standard order.
13. Based on the evidence before me, I find that a payment plan is appropriate and affordable in the circumstances. Although this is a fairly short-term tenancy, I note that the Tenants have been making payments since the application was filed. The Tenants are in a position now that allows for the payment plan that they are suggesting. Although there may be some prejudice to the Landlord in allowing this payment plan, the prejudice suffered by the Tenants is greater in these circumstances. The Tenants have 3 small children and if they are to be evicted, the Tenant testified that they will have no where to go. If the Tenants fail to make any of the payments ordered, the Landlord can enforce their rights pursuant to section 78.
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 \$10,100.00 for arrears of rent up to November 30, 2022 and \$186.00 in costs. The total amount owing to the Landlord is \$10,286.00, 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 20, 2022, the Tenants shall pay to the Landlord \$1,500.00 on or before the 20th day of every month until May 20, 2023.
 - On or before June 20, 2023, the Tenants shall pay to the Landlord \$1,286.00.
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 June 1, 2023 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 23, 2022
Issued

Date
Emily Robb
Member, Landlord and Tenants Board

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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.