



Order under Section 69 Residential Tenancies Act, 2006

Citation: 260 Wellesley Residences v Obando, 2022 ONLTB 12446

Date: 2022-11-23

File Number: LTB-L-023366-22

In the matter of: 1802, 240 WELLESLEY ST E
TORONTO ON M4X1G5

Between: 260 Wellesley Residences Landlord

And

Janice Batarao Tenants
Luis Obando
Tristan Denobrega

260 Wellesley Residences (the 'Landlord') applied for an order to terminate the tenancy and evict Janice Batarao, Luis Obando and Tristan Denobrega (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 10, 2022. The Landlord's legal representative Charlie Bobrowsky and the Tenants Luis Obando and Janice Batarao 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 \$1,821.60. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$59.89. This amount is calculated as follows: \$1,821.60 x 12, divided by 365 days.
5. The Tenants have paid \$3,390.00 to the Landlord since the application was filed.
6. The rent arrears owing to November 30, 2022 are \$13,004.10.
7. The Landlord is entitled to \$20.00 to reimburse the Landlord for administration charges and \$5.00 for bank fees the Landlord incurred as a result of 1 cheque 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 \$1,841.60 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.
10. Interest on the rent deposit, in the amount of \$19.01 is owing to the Tenants for the period from January 1, 2021 to November 10, 2022.

Relief from eviction:

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 postpone the eviction until January 31, 2023 pursuant to subsection 83(1)(b) of the Act.
12. The Tenants testified that they fell into arrears of rent as a result of their roommate vacating and as such, reducing their household income. The Tenants did not propose a repayment plan, but requested that the Board delay eviction as they have a nine-month-old child and are currently looking for alternate housing.
13. The Tenants have continued to make good-faith payments since the application was filed. As such, I find it would not be unfair to grant the Tenants request.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants void this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$13,215.10 if the payment is made on or before November 30, 2022. See Schedule 1 for the calculation of the amount owing.

OR

 - \$15,036.70 if the payment is made on or before December 31, 2022. See Schedule 1 for the calculation of the amount owing.

OR

 - \$16,858.30 if the payment is made on or before January 31, 2023. See Schedule 1 for the calculation of the amount owing.
3. The Tenants may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenants have paid the full amount owing as ordered plus any additional rent that became due after January 31, 2023, but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.

4. **If the Tenants do not pay the amount required to void this order the Tenants must move out of the rental unit on or before January 31, 2023**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$10,131.79. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application and unpaid NSF charges. 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 Tenants shall also pay the Landlord compensation of \$59.89 per day for the use of the unit starting November 11, 2022 until the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before December 4, 2022, the Tenants 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 January 31, 2023, then starting February 1, 2023, 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 February 1, 2023.

November 23, 2022
Date Issued

Fabio Quattrociochi
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 August 1, 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.

*Note: When the Board directs payment-out, the Canadian Imperial Bank of Commerce will issue a cheque to the appropriate party named in this notice. The cheque will be in the amount directed plus any interest accrued up to the date of the notice

Schedule 1
SUMMARY OF CALCULATIONS

A. Amount the Tenants 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	\$16,394.10
Application Filing Fee	\$186.00
NSF Charges	\$25.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$3,390.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenants for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants are entitled to	- \$
Total the Tenants must pay to continue the tenancy	\$13,215.10

B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before December 31, 2022

Rent Owing To December 31, 2022	\$18,215.70
Application Filing Fee	\$186.00
NSF Charges	\$25.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$3,390.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenants for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants are entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$15,036.70

C. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before January 31, 2023

Rent Owing To January 31, 2023	\$20,037.30
Application Filing Fee	\$186.00
NSF Charges	\$25.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$3,390.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenants for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants are entitled to	- \$0.00

Total the Tenants must pay to continue the tenancy	\$16,858.30
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D. Amount the Tenants must pay if the tenancy is terminated

Rent Owing To Hearing Date	\$15,171.40
Application Filing Fee	\$186.00
NSF Charges	\$25.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$3,390.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$1,841.60
Less the amount of the interest on the last month's rent deposit	- \$19.01
Less the amount the Landlord owes the Tenants for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants are entitled to	- \$0.00
Total amount owing to the Landlord	\$10,131.79
Plus daily compensation owing for each day of occupation starting November 11, 2022	\$59.89 (per day)