



**Order under Section 69
Residential Tenancies Act, 2006**

Citation: Alizadeh-Safa v Perryman, 2022 ONLTB 12630

Date: 2022-11-22

File Number: LTB-L-006593-22

In the matter of: 1, 141 GROVE ST E
BARRIE ON L4M2P4

Between: Amir Alizadeh-Safa Landlord

And

Casey Jay Perryman Tenant

Amir Alizadeh-Safa (the 'Landlord') applied for an order to terminate the tenancy and evict Casey Jay Perryman (the 'Tenant') because the Tenant has been persistently late in paying the Tenant's rent.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on October 31, 2022.

Only the Landlord and their Representative Erli Bregu attended the hearing.

As of 9:38 a.m. the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. Therefore, the tenancy is terminated as of December 3, 2022 and the Tenant shall pay compensation for each day the Tenant remained in the unit after the termination date.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On January 4, 2022, the Landlord gave the Tenant an N8 notice of termination. The notice of termination alleged that the Tenant had persistently paid their rent late. At the time the N8 notice was served the Tenant had paid their rent late 8 times from June 2021 to January 2022.
4. Since the application was filed the Tenant has either paid their rent late or not at all for 9 months from February 2022 to October 2022.

5. Over the course of the tenancy there have been three N4 notices of termination served for non-payment of rent. The termination dates on those notices are July 23, 2021, November 17, 2021, and September 17, 2022.
6. I do not find that the Landlord has acquiesced to the late rent payments as they have consistently followed up with the Tenant about outstanding rent.
7. The Landlord's Representative submitted that the Tenants late payments are affecting the Landlord's ability to pay his mortgage.
8. I find that the Tenant has persistently failed to pay the rent on the date it was due. The rent is due on the 1st day of each month. The rent has been paid late 17 times in the past 17 months.
9. Based on the Monthly rent, the daily compensation is \$52.60. This amount is calculated as follows: \$1,600.00 x 12, divided by 365 days.
10. The Tenant was required to pay the Landlord \$11,256.99 in daily compensation for use and occupation of the rental unit for the period from April 1, 2022 to October 31, 2022.
11. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
12. The Landlord collected a rent deposit of \$1,600.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$15.99 is owing to the Tenant for the period from February 15, 2021 to October 31, 2022.
13. In accordance with subsection 106(10) of the *Residential Tenancies Act, 2006*, (the 'Act') the last month's rent deposit shall be applied to the rent for the last month of the tenancy.
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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
15. I have considered whether it would be appropriate to grant relief from eviction in the form of a pay on time order. However, I am not satisfied that the Tenant would abide by such an order because they have paid their rent late 17 months in a row. The Tenant is also in arrears and has had three previous N4 notices of termination served on them during the tenancy.
16. In determining that it would be unfair to grant relief from eviction I have also considered that this is a relatively new tenancy but that the rent has been paid late since the 5th month of the tenancy. Additionally, the tenant did not attend the hearing to provide any evidence relevant to my analysis under section 83 of the Act. The Landlord's Representative was not aware of any circumstances that would cause me to delay or deny the eviction.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before December 3, 2022.

2. If the unit is not vacated on or before December 3, 2022, then starting December 4, 2022, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. 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 4, 2022.
4. The Tenant shall pay to the Landlord \$9,641.00, which represents compensation for the use of the unit from April 1, 2022 to October 31, 2022, less the rent deposit and interest the Landlord owes on the rent deposit. The Landlord shall deduct from that amount any rent payments that have been made during the compensation period.
5. The Tenant shall also pay the Landlord compensation of \$52.60 per day for the use of the unit starting November 1, 2022 until the date the Tenant moves out of the unit.
6. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
7. If the Tenant does not pay the Landlord the full amount owing on or before December 3, 2022, the Tenant will start to owe interest. This will be simple interest calculated from December 4, 2022 at 4.00% annually on the balance outstanding.

November 22, 2022
Date Issued

Amanda Kovats
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 of the Tenant expires on June 4, 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.