



Order under Section 69 Residential Tenancies Act, 2006

Citation: El Shaboury v Das, 2022 ONLTB 12669

Date: 2022-11-21

File Number: LTB-L-004671-22

In the matter of: 46 LAIRD DR
ST CATHARINES ON L2P3E4

Between: Shrouk H El Shaboury Landlord

And

Garry M Marion, Sonja Jane Das Tenants

Shrouk H El shaboury (the 'Landlord') applied for an order to terminate the tenancy and evict Garry M Marion, Sonja Jane Das (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on August 2, 2022.

The Landlord, the Landlord's legal representative, J. Dean and the Tenants 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 \$2,100.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$69.04. This amount is calculated as follows: \$2,100.00 x 12, divided by 365 days.
5. The Tenants have not made any payments since the application was filed.
6. The rent arrears owing to August 31, 2022 are \$25, 286.00.
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 \$2,100.00 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. The Tenants have not made any rent payments since August 2021 despite the Landlord's efforts to try to negotiate a payment plan with the Tenants.

10. At the hearing, the Tenants admitted that no rent monies were paid to the Landlord.
11. Based on the evidence before me and the testimony provided at the hearing, I am not satisfied on a balance of probabilities that the Tenants will be able to pay the outstanding amount owing to the Landlord.
12. At the hearing, the Tenants were unable to demonstrate how they would be able to pay the lawful monthly rent amount going forward and after the arrears owing to the Landlord were paid.
13. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenant and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

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:**
 - \$31,686.00 if the payment is made on or before November 30, 2022. See Schedule 1 for the calculation of the amount owing.

OR

 - \$33,786.00 if the payment is made on or before December 2, 2022. 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 December 2, 2022 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 Tenant must move out of the rental unit on or before December 2, 2022**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$8,586.00. 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 Tenants. See Schedule 1 for the calculation of the amount owing.
6. The Tenants shall also pay the Landlord compensation of \$69.04 per day for the use of the unit starting 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 2, 2022, the Tenants will start to owe interest. This will be simple interest calculated from December 3, 2022 at 3.00% annually on the balance outstanding.

8. If the unit is not vacated on or before December 2, 2022, then starting December 3, 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 3, 2022.

November 21, 2022

Date Issued

Daniel Berube

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 3, 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	\$31,500.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$
Total the Tenants must pay to continue the tenancy	\$31,686.00

B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before December 2, 2022

Rent Owing To December 31, 2022	\$33,600.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$33,786.00

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

Rent Owing To Hearing Date	\$10,500.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$2,100.00
Less the amount of the interest on the last month's rent deposit	- \$0.00
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00

Less the amount of the credit that the Tenant is entitled to	- \$
Total amount owing to the Landlord	\$8,586.00
Plus daily compensation owing for each day of occupation starting	\$69.04 (per day)