



Order under Section 69
Residential Tenancies Act, 2006

Citation: Premax Management Limited v Ahmed, 2022 ONLTB 12478

Date: 2022-11-17

File Number: LTB-L-009829-22

In the matter of: 903, 3400 EGLINTON AVE E
SCARBOROUGH ON M1J2H8

Between: Premax Management Limited Landlord

And

Shah M. Ahmed Tenant

Premax Management Limited (the 'Landlord') applied for an order to terminate the tenancy and evict Shah M. Ahmed (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes (L1 Application); and the Tenant has been persistently late in paying the Tenant's rent; (L2 Application).

This application was heard by videoconference on November 3, 2022.

Only the Landlord's Representative David Ciobotaru attended the hearing.

As of 12:35p.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the Board. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

L1 Application – Non-Payment of Rent

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 \$1,127.40. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$37.06. This amount is calculated as follows: \$1,127.40 x 12, divided by 365 days.
5. The Tenant has paid \$12,319.36 to the Landlord since the application was filed.
9. The rent arrears owing to November 30, 2022 are \$522.52.

10. The Tenant sent an email to the Landlord and Tenant Board indicating that he did not have any outstanding arrears with his Landlord and attached a rent ledger. However, the Tenant did not attend the hearing to provide any testimony or introduce his materials as exhibits. As such, the Tenant's evidence was not considered.
11. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
14. The Landlord collected a rent deposit of \$1,056.00 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.

L2 Application – Persistent Late Payment of Rent

15. At the time the N8 Notice of Termination was served the Tenant had paid their rent late 11 times between March 2021 to February 2022. Since then, between March 2022 and November 2022 the Tenant has paid rent late or not at all 8 times. Many of the payments that were made were made in partial payments throughout the month.
16. 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 19 times in the past 21 months.
17. The Landlord has sent the Tenant reminder notices about the rent on a monthly basis.
18. The Tenant's late payments have affected the Landlord's ability to pay their bills.

Relief from Eviction

19. 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.
20. The Landlord is not seeking eviction and instead asked for a conditional order. The Landlord's Representative indicated that the Tenant has been suffering from health issues for some time. The Landlord's Representative also submitted that it was indicated to the Tenant that the tenancy would be maintained conditional on rent being pay on time and in full for the period of one year and the outstanding arrears being paid.
21. The Landlord asked for the arrears to be paid by November 15, 2022, however I will require that the arrears be paid by November 30, 2022 to give the Tenant sufficient time between the issuance of this order and the payment deadline.
22. I find that a conditional order would be reasonable in the circumstances given that the outstanding arrears are fairly low and that the Tenant has been making payments.

It is ordered that:

1. The tenancy between the Landlord and the Tenant continues if the Tenant meets the conditions set out below.
2. In regard to the L1 Application, the Tenant shall pay the Landlord the outstanding arrears in the amount of \$522.62 on or before November 30, 2022.
3. In regard to the L2 Application the Tenant shall pay to the Landlord new rent on time and in full as it comes due and owing for the period December 1, 2022 to November 1, 2023.
4. If the Tenant fails to make any of the payments in paragraph 2 of 3 above, the Landlord may apply under section 78 of the Act, within 30 days of the breach and without notice to the Tenant, for an order terminating the tenancy and evicting the Tenant.
5. On or before November 30, 2022 the Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.
6. If the Tenant does not pay the Landlord the full amount owing on or before November 30, 2022, the Tenant will start to owe interest. This will be simple interest calculated from December 1, 2022 at 4.00% annually on the balance outstanding.

November 17, 2022

Date Issued

Amanda Kovats

Member, Landlord and Tenant Board

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