



Order under Section 69 Residential Tenancies Act, 2006

Citation: Barrie Housing v Tarascio, 2022 ONLTB 12376

Date: 2022-11-17

File Number: LTB-L-020478-22

In the matter of: 45-549 Yonge Street
Barrie, ON L4N 7P8

Between: Barrie Housing Landlord

And

Patrick Tarascio Tenant

Barrie Housing (the 'Landlord') applied for an order to terminate the tenancy and evict Patrick Tarascio (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on October 25, 2022.

The Landlord's agent Soula White and the Tenant attended the hearing. The Tenant spoke with Tenant Duty Counsel prior to the hearing.

Determinations:

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 \$1,073.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$35.28. This amount is calculated as follows: \$1,073.00 x 12, divided by 365 days.
5. The Tenant has paid \$4,098.00 to the Landlord since the application was filed.
6. The rent arrears owing to October 31, 2022 are \$3,274.00.
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 \$982.00 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.
9. Interest on the rent deposit, in the amount of \$135.75 is owing to the Tenant for the period from January 18, 2013 to October 25, 2022.

10. The Landlord's agent submitted that the arrears paid by the Tenant since the application were paid by The Corporation of the County of Simcoe, and that the Tenant's rent supplement would be expiring December 31, 2022.
11. The Tenant acknowledged the arrears but testified that the unit is rent geared to income, as when he applied for the unit 10 years ago, he obtained the unit on the basis that he was on Ontario Works at the time. The Tenant testified that in October 2021 he was removed from Ontario Works but was just put back on the week prior to the hearing. The Tenant testified that Ontario Works is paying him \$685.00 a month. He wasn't sure if he was receiving that amount per month, or bi-weekly.
12. The Tenant testified that Ontario Works used to pay his rent directly and that he had submitted the Landlord's notice of termination to his worker in May of 2022 and figured that it had been paid. The Tenant testified that he has no savings and no plans to repay the arrears. He testified that he plans on moving in with his daughter in Guelph.
13. The Landlord's agent submitted that she had reviewed the lease and confirmed that the unit is a market rent unit. She further submitted that she does not believe that the Tenant can afford the unit based on his current income. She submitted that the Tenant's water was cut off some time ago due to non-payment.
14. Having heard the evidence of both parties, I am not satisfied that the Tenant is able to maintain this tenancy. Not only is he behind on his rent payments, the unit's water has also been cut off which could cause damage to the unit. The Tenant will be given until the end of the month to either void the order or vacate the unit.
15. 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 November 30, 2022 pursuant to subsection 83(1)(b) of the Act.

It is ordered that:

16. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
17. **The Tenant may void this order and continue the tenancy by paying to the Landlord:**
 1. \$4,533.00 if the payment is made on or before November 30, 2022. See Schedule 1 for the calculation of the amount owing.
18. The Tenant may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenant has paid the full amount owing as ordered plus any additional rent that became due after November 30, 2022 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
19. **If the Tenant does not pay the amount required to void this order the Tenant must move out of the rental unit on or before November 30, 2022.**
20. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$2,151.25. 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 Tenant. See Schedule 1 for the calculation of the amount owing.

21. The Tenant shall also pay the Landlord compensation of \$35.28 per day for the use of the unit starting October 26, 2022 until the date the Tenant moves out of the unit.
22. If the Tenant does not pay the Landlord the full amount owing on or before November 28, 2022, the Tenant will start to owe interest. This will be simple interest calculated from November 29, 2022 at 4.00% annually on the balance outstanding.
23. If the unit is not vacated on or before November 30, 2022, then starting December 1, 2022, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
24. 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 1, 2022.

November 17, 2022

Date Issued

Jagger Benham

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 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.

**Schedule 1
SUMMARY OF CALCULATIONS**

A. Amount the Tenant 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	\$8,445.00
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$4,098.00
Total the Tenant must pay to continue the tenancy	\$4,533.00

B. Amount the Tenant must pay if the tenancy is terminated

Rent Owing To Hearing Date	\$7,181.00
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$4,098.00
Less the amount of the last month's rent deposit	- \$982.00
Less the amount of the interest on the last month's rent deposit	- \$135.75
Total amount owing to the Landlord	\$2,151.25
Plus daily compensation owing for each day of occupation starting October 26, 2022	\$35.28 (per day)