



Order under Section 69 Residential Tenancies Act, 2006

Citation: Capreit Limited Partnership v Francis, 2022 ONLTB 11808

Date: 2022-11-14

File Number: LTB-L-012352-22

In the matter of: 303, 143 EIGHTH ST
ETOBICOKE ON M8V3C8

Between: Capreit Limited Partnership Landlord

And

Shazne Francis Tenant

Capreit Limited Partnership (the 'Landlord') applied for an order to terminate the tenancy and evict Shazne Francis (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on September 1, 2022.

The Landlord's Legal Representative, M. Bloch and the Tenant attended 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 \$1,578.72. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$51.90. This amount is calculated as follows: \$1,578.72 x 12, divided by 365 days.
5. The Tenant has paid \$1,750.00 to the Landlord since the application was filed.
6. The rent arrears owing to September 30, 2022 are \$11,918.48.
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 \$1,578.72 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 \$12.66 is owing to the Tenant for the period from January 1, 2022 to September 1, 2022.

Relief from Eviction

10. The Tenant testified that he was employed by the airline industry and as a result of Covid-19, he was laid off near the start of the pandemic. He testified that he went back to work in March but was laid off again. He started working again in July of this year and testified that he is financially stable now. He testified that he has reached out to social service agencies to get help with the arrears, but nothing has come in to fruition as of the date of the hearing.
11. He testified that he could pay the arrears off over approximately 2 years by paying \$500.00 a month in addition to his monthly rent. In the alternative, the Tenant testified that he would need 2 months to vacate the unit.
12. The Landlord is requesting a standard order.
13. The payment plan that the Tenant has suggested is not sustainable given his monthly income and expenses. Based on the Tenant's testimony regarding his monthly expenses, the Tenant is in a deficit each month before considering the monthly arrears payment he has proposed. Based on that, I do not find that a payment plan is appropriate in these circumstances. The Tenant testified that they would need 2 months to vacate the unit. Given the timing of this order in relation to the hearing date, no further delay shall be ordered.
14. 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 Tenant is terminated unless the Tenant voids this order.
2. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$15,261.92 if the payment is made on or before November 25, 2022. See Schedule 1 for the calculation of the amount owing.
3. 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 25, 2022 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
4. **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 25, 2022**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$8,986.28. 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.

6. The Tenant shall also pay the Landlord compensation of \$51.90 per day for the use of the unit starting September 2, 2022 until the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlord the full amount owing on or before November 25, 2022, the Tenant will start to owe interest. This will be simple interest calculated from November 26, 2022 at 4.00% annually on the balance outstanding.
8. If the unit is not vacated on or before November 25, 2022, then starting November 26, 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 November 26, 2022.

November 14, 2022
Date Issued

Emily Robb
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 May 26, 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 25, 2022

Rent Owing To November 30, 2022	\$16,825.92
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$1,750.00
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 Tenant must pay to continue the tenancy	\$15,261.92

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

Rent Owing To Hearing Date	\$12,141.66
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$1,750.00
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	- \$1,578.72
Less the amount of the interest on the last month's rent deposit	- \$12.66
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	\$8,986.28
Plus daily compensation owing for each day of occupation starting September 2, 2022	\$51.90 (per day)

