



Order under Section 69 and utilizing Section 78 Residential Tenancies Act, 2006

Citation: Homestead Land Holdings Limited v Palmer, 2022 ONLTB 11396

Date: 2022-11-10

File Number: LTB-L-013958-22

In the matter of: 1004, 24 FOREST MANOR RD
NORTH YORK ON M2J1M3

Between: Homestead Land Holdings Limited Landlord

And

Gary Palmer Tenant

Homestead Land Holdings Limited (the 'Landlord') applied for an order to terminate the tenancy and evict Gary Palmer (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on September 15, 2022 and then reconvened by videoconference on November 4, 2022. The Landlord's legal representative, Andrew Hyland, and the Tenant attended both hearings.

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 \$1,435.27. It is due on the 1st day of each month.
4. The parties agree that on March 1, 2023 the rent will increase by the guideline of 2.5% to \$1,471.14.
5. The Tenant has paid \$4,500.00 to the Landlord since the application was filed.
6. The rent arrears owing to November 30, 2022 are \$23,721.67.
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 \$1,308.56 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. 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.
10. The Tenant has resided in the rental unit for 34 years and has suffered a series of back injuries over the past year. He is 74 years old and has started two business ventures regarding monuments and urns which he believes will support him in paying the Landlord \$4,500.00 per month starting December 1, 2022 until the arrears are paid in full. He was not able to provide the supporting documentation as of the time of the hearing
11. The Landlord was opposed to the payment proposal on the basis that the Tenant has made several promises before and did not follow through on them. The sum of the outstanding rent is prejudicial to the Landlord which currently sits above \$23,000.00 and they have concerns that the Tenant will default on the payments in short time. Otherwise, the Landlord was not opposed to the payment proposal of paying the arrears off in a relatively short period of time.
12. After considering the length of time that the Tenant has resided in the rental unit and the fact that the Tenant did start paying the Landlord \$2,000.00 per month as he had promised at the September 15th hearing, I find it appropriate to give the Tenant the opportunity to make the payments to the Landlord as proposed.
13. An oral decision was provided to the parties at the hearing, that I am granting the Tenants payment proposal request. It was explained to the Tenant that if the Tenant misses a payment or is short on a payment under the order, then the Landlord can file with the Board to request termination of the tenancy and new rent due and that the Landlord can file without notice to the Tenant for this order.
14. The Tenant will be obligated to pay the monthly rent on or before the first day of each corresponding month in addition to the arrears payments. The sums on the first day of each month should be calculated at a total of \$4,500.00 which includes rent and arrears.

It is ordered that:

1. The Tenant shall pay to the Landlord \$23,907.67 for arrears of rent up to November 30, 2022, and costs.
2. The Landlord's application for eviction of the Tenant is denied on the conditions that the Tenant shall pay to the Landlord the amount set out in paragraph 1 in accordance with the following schedule:

Date Payment Due	Amount of Payment
December 1, 2022	\$2,564.73 (arrears and costs)
January 1, 2023	\$2,564.73 (arrears)
February 1, 2023	\$2,564.73 (arrears)
March 1, 2023	\$2,528.86 (arrears)

April 1, 2023	\$2,528.86 (arrears)
May 1, 2023	\$2,528.86 (arrears)
June 1, 2023	\$2,528.86 (arrears)
July 1, 2023	\$2,528.86 (arrears)
August 1, 2023	\$2,528.86 (arrears)
September 1, 2023	\$1,040.32 (arrears)

3. The Tenant shall also pay to the Landlord new rent on time and in full as it comes due and owing for the period December 1, 2022 to September 1, 2023, or until the arrears are paid in full, whichever date is earliest.
4. If the Tenant fails to make any one of the payments in accordance with this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenant to the Landlord pursuant to paragraph 1 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenant, apply to the LTB within 30 days of the Tenant's breach pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenant and requiring that the Tenant pay any new arrears, NSF fees and related charges that became owing after November 30, 2022.

November 10, 2022
Date Issued

 Terri van Huisstede
 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.