



Order under Section 69 Residential Tenancies Act, 2006

Citation: LETSON v LEONARD, 2022 ONLTB 11432

Date: 2022-11-08

File Number: LTB-L-049144-22

In the matter of: 2, 262 WELLINGTON STREET WEST
SAULT STE MARIE ONTARIO PA61H7

Between: BONNIE LETSON Landlord

And

TRISTAN LEONARD Tenant

BONNIE LETSON (the 'Landlord') applied for an order to terminate the tenancy and evict TRISTAN LEONARD (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes. (L1 application)

The Landlord also applied for an order to terminate the tenancy and evict the Tenant because the Tenant, another occupant of the rental unit or a person the Tenant permitted in the residential complex has seriously impaired the safety of any person. (L2 application)

These L1 and L2 applications were heard by videoconference on October 31, 2022.

Only the Landlord attended the hearing.

As of 9:42 am, the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. The Landlord also confirmed that she provided the Tenant a copy of the possible evidence on October 24, 2022, and again she spoke with the Tenant directly on October 27, 2022 to advise him of this scheduled LTB hearing. As a result, the hearing proceeded with only the Landlord's evidence.

As a preliminary matter, the Landlord requested that the style of cause be corrected as the information she provided the LTB when filing the two applications somehow created an incorrect style of cause. As such, the names of Deborah Hunter and Tom Letson were removed as "landlords" and the name of Kathy Biller was removed as a "tenant". The title of proceedings above reflects these corrections.

Determinations:

L1 Application

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 \$750.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$24.66. This amount is calculated as follows: $\$750.00 \times 12$ months, divided by 365 days.
5. The Tenant has paid \$9,500.00 to the Landlord since the L1 application was filed.
6. The rent arrears owing to October 31, 2022 are \$2,500.00. At the time of order issuance, another month of rent has become due and payable on November 1, 2022, which is reflected in the order below.
7. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$200.00 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 \$9.94 is owing to the Tenant for the period from January 7, 2019 to October 31, 2022.
10. The Landlord explained that on several occasions from July to September, she communicated with the Tenant about the arrears owing and tried to get him to pay his arrears in some planned fashion. The Landlord stated the Tenant indicated to her that he had found a job so that he could make up his arrears, but did not do so.
11. 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.

L2 Application

12. An N7 notice of termination underlying the application was served on the Tenant, claiming the Tenant refused to allow the Landlord to inspect the unit (after due notice was given) because the Tenant said he had tested positive for the covid virus and needed to be quarantined over a 10-day period. However, the N7 further claims the Tenant did not comply with any of the quarantine requirements, which placed other tenants of the building in danger. The Landlord is seeking the termination of the tenancy as the only remedy under the application.
13. During the hearing, the Landlord led exhibit LL#1, which comprises a number of March 29, 2022 statements of complaint, signed by other tenants of the building. All of the statements in LL#1 were identical in content but filled in and signed by various tenants. LL#1 speaks to the claims in the N7 notice in respect of the Tenant not complying with quarantine requirements.

14. The Landlord stated that after trying 2 or 3 times to get access to the unit, the Tenant told her around March 23, 2022 that he was not vaccinated and that he had contracted covid. She accepted the Tenant's position and told him she would wait the 10-day quarantine period before trying to enter the rental unit. The Landlord stated her concerns stem as well from the Tenant owning two dogs and there has been up to 6 people living in the rental unit at times.
15. However, the Landlord also stated the Tenant often does not tell the truth and tries to dodge her when tenancy issues arise.
16. None of the complainants in LL#1 was present to provide direct (first-person) testimony, and the Landlord confirmed that she was relying on the text messages she received from these residents, which resulted in the LL#1 complaints being produced. The Landlord testified she saw the Tenant on common area surveillance cameras going in and out of the unit and the building during the supposed quarantine period.
17. When I asked the Landlord whose safety exactly was seriously impaired, she was unable to provide anything further other than the foregoing.
18. The Landlord testified she eventually did get access to the rental unit in late March, early April 2022 when she determined there was undue damage to the unit caused by the Tenant, his pets or guests.
19. Based on the submissions by the Landlord during the hearing, I was not persuaded on a balance of probabilities that the Tenant seriously impaired the safety of any person in the rental unit or the residential complex. The testimony and evidence of the Landlord were primarily hearsay submissions, and while hearsay evidence can be admitted and considered, I was not given anything specific or tangible to find the threshold of serious impairment for safety claims under section 66 of the Act had been reached. There was no way to corroborate any of the hearsay evidence – no witness testimony or video evidence – and certainly nothing testified-to convinced me that anyone's safety had been seriously impaired.
20. I explained in brief the threshold needed to be proven on a balance of probabilities to the Landlord, and informed her the L2 application would be dismissed.

It is ordered that:

L1 Application

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:**
 - \$3,451.00 if the payment is made on or before November 19, 2022. See Schedule 1-part A 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 19, 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 19, 2022**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$2,493.42. This amount includes rent arrears owing up to the date of the hearing (October 31, 2022) 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-part B for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$24.66 per day for the use of the unit starting November 1, 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 19, 2022, the Tenant will start to owe interest. This will be simple interest calculated from November 20, 2022 at 4.00% annually on the balance outstanding.
8. If the unit is not vacated on or before November 19, 2022, then starting November 20, 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 20, 2022.

L2 Application

10. The L2 application is dismissed.

November 8, 2022
Date Issued

15 Grosvenor Street, Ground Floor
Toronto ON M7A 2G6

Alex Brkic
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.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on May 20, 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 Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before November 19, 2022

Rent Owing to October 31, 2022	\$12,000.00
Rent Owing for November 1 - 30, 2022	\$750.00
Application Filing Fee	\$201.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$9,500.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Total the Tenant must pay to continue the tenancy	\$3,451.00

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

Rent Owing To Hearing Date (Oct 31/22)	\$12,000.00
Application Filing Fee	\$201.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$9,500.00
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	- \$200.00
Less the amount of the interest on the last month's rent deposit	- \$9.94
Total amount owing by the Tenant to the Landlord	\$2,493.42
Plus daily compensation owing for each day of occupation starting November 1, 2022	\$24.66 (per day)