



Order under Section 69 Residential Tenancies Act, 2006

Citation: Marda Management Inc. v Palacios, 2022 ONLTB 11137

Date: 2022-11-03

File Number: LTB-L-017988-22

In the matter of: 305-524 Pitt Street West
Windsor, ON N9A 5M2

Between: Marda Management Inc. Landlord

And

Rosibel Palacios Tenant

Marda Management Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Rosibel Palacios (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on October 11, 2022.

The Landlord's Legal Representative Kira Passell 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 \$936.10. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$30.78. This amount is calculated as follows: \$936.10 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to October 31, 2022 are \$8,794.40.
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 \$925.00 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 \$8.64 is owing to the Tenant for the period from May 26, 2021 to October 11, 2022.

10. The Tenant acknowledged the arrears. She testified that in February of 2022 she had to move in with her mother for three months as the unit did not have adequate heat.
11. The Tenant further testified that she lost her job in Leamington and had advised the Landlord of this. She testified that she will be back to work on October 16, 2022 and that she could start paying the regular rent plus an additional \$250.00 a month. This proposed payment plan would repay the entire arrears in nearly three years.
12. The Landlord's Legal Representative submitted that the Tenant had received assistance from the Housing Stability Office in in December and had been able to pay \$500.00 towards the arrears on March 2, 2022 and since then the Tenant has failed to make any further payments.
13. The Landlord's Legal Representative submitted that the Tenant had agreed to a payment plan on July 28, 2022 that she would pay an additional \$250.00 per month on top of the regular rent to start August 5, 2022. The Tenant did not make any payments.
14. Further, the Landlord's Legal Representative submitted that the Tenant has also not been paying her utility expenses and that the Landlord never received a complaint from the Tenant about the lack of heat. The Tenant in response stated that everyone in the residential complex had issues with the heat and the Landlord ought to have know about the issue.
15. Having heard the evidence of both parties, I am not satisfied that the Tenant's proposed payment plan is reasonable for two reasons, one because the term of the plan is unreasonable and prejudicial to the Landlord, and two because the Tenant failed to follow through on an agreed upon payment plan in July of 2022.
16. Further, I am not satisfied that the Tenant advised the Landlord about her issues with the heat in the unit in February 2022.
17. As such, the tenancy will be terminated but based on the Tenant's evidence with respect to her employment issues the termination date will be extended until the end of December to give the Tenant an opportunity to either find a new unit or to void the order.
18. 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 December 31, 2022 pursuant to subsection 83(1)(b) of the Act.

It is ordered that:

19. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
20. **The Tenant may void this order and continue the tenancy by paying to the Landlord:**
 1. \$9,916.50 if the payment is made on or before November 30, 2022. See Schedule 1 for the calculation of the amount owing.

OR

2. \$10,852.60 if the payment is made on or before December 31, 2022. See Schedule 1 for the calculation of the amount owing.
21. 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 December 31, 2022 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
- 22. 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 December 31, 2022.**
23. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$7,449.24. 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.
24. The Tenant shall also pay the Landlord compensation of \$30.78 per day for the use of the unit starting October 12, 2022 until the date the Tenant moves out of the unit.
25. If the Tenant does not pay the Landlord the full amount owing on or before November 14, 2022, the Tenant will start to owe interest. This will be simple interest calculated from November 15, 2022 at 4.00% annually on the balance outstanding.
26. If the unit is not vacated on or before December 31, 2022, then starting January 1, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
27. 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 January 1, 2023.

November 3, 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 July 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	\$9,730.50
Application Filing Fee	\$186.00
Total the Tenant must pay to continue the tenancy	\$9,916.50

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before December 31, 2022

Rent Owing To December 31, 2022	\$10,666.60
Application Filing Fee	\$186.00
Total the Tenant must pay to continue the tenancy	\$10,852.60

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

Rent Owing To Hearing Date	\$8,196.88
Application Filing Fee	\$186.00
Less the amount of the last month's rent deposit	- \$925.00
Less the amount of the interest on the last month's rent deposit	- \$8.64
Total amount owing to the Landlord	\$7,449.24
Plus daily compensation owing for each day of occupation starting October 12, 2022	\$30.78 (per day)