



Order under Section 69 Residential Tenancies Act, 2006

Citation: Agbeyaka v Burnett, 2022 ONLTB 10358

Date: 2022-11-03

File Number: LTB-L-018959-22

In the matter of: 99, 1780 SIMCOE ST N
OSHAWA ON L1G0C3

Between: Evelyn Agbeyaka Landlords
Nunyah Agbeyaka

And

Chanel Catherine Burnett Tenant

Evelyn Agbeyaka and Nunyah Agbeyaka (the 'Landlords') applied for an order to terminate the tenancy and evict Chanel Catherine Burnett (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on October 24, 2022.

Only the Landlords Nunyah Agneyaka and Evelyn Agbeyaka and the Landlords' Legal Representative Victoria Orlandi attended the hearing.

As of 2:40 p.m., 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. Since the Tenant did not attend and the Landlords were prepared to proceed, the matter proceeded by way of an uncontested hearing pursuant to section 7 of the *Statutory Powers Procedure Act*, R.S.O. 1990.

Determinations:

1. At the hearing the Landlords' Legal Representative relied on oral submissions and referred to documents to support their application.
2. The Landlords 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.
3. As of the hearing date, the Tenant was still in possession of the rental unit.
4. The lawful rent is \$2,400.00. It is due on the 13th day of each month.
5. Based on the Monthly rent, the daily rent/compensation is \$78.90. This amount is calculated as follows: \$2,400.00 x 12, divided by 365 days.

6. The Tenant has not made any payments since the application was filed.
7. The rent arrears owing to November 12, 2022 are \$21,600.00.
8. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlords collected a rent deposit of \$2,400.00 from the Tenant and this deposit is still being held by the Landlords. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
10. Interest on the rent deposit, in the amount of \$23.44 is owing to the Tenant for the period from October 15, 2021 to October 24, 2022.
11. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including whether the Landlords attempted to negotiate a repayment agreement with the Tenant. The Landlords submitted that ongoing efforts were made in relation to a repayment agreement, but the Tenant did not respond. I asked the Landlords if they were aware of any circumstances the Tenant may be experiencing that would make eviction unfair and they were aware of none. I find 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 Landlords 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 Landlords or to the LTB in trust:**
 - \$21,786.00 if the payment is made on or before November 12, 2022. See Schedule 1 for the calculation of the amount owing.

OR

 - \$24,186.00 if the payment is made on or before November 14, 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 14, 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 14, 2022**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlords \$17,909.36. 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 Landlords owe 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 Landlords compensation of \$78.90 per day for the use of the unit starting October 25, 2022 until the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlords 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.
8. If the unit is not vacated on or before November 14, 2022, then starting November 15, 2022, the Landlords 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 Landlords on or after November 15, 2022.

November 3, 2022
Date Issued

John Cashmore
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 15, 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 12, 2022

Rent Owing To November 12, 2022	\$21,600.00
Application Filing Fee	\$186.00
Total the Tenant must pay to continue the tenancy	\$21,786.00

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before November 14, 2022

Rent Owing To December 12, 2022	\$24,000.00
Application Filing Fee	\$186.00
Total the Tenant must pay to continue the tenancy	\$24,186.00

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

Rent Owing To Hearing Date	\$20,146.80
Application Filing Fee	\$186.00
Less the amount of the last month's rent deposit	- \$2,400.00
Less the amount of the interest on the last month's rent deposit	- \$23.44
Total amount owing to the Landlords	\$17,909.36
Plus daily compensation owing for each day of occupation starting October 25, 2022	\$78.90 (per day)