



Order under Section 87 Residential Tenancies Act, 2006

Citation: Wang v Mintz, 2022 ONLTB 9780

Date: 2022-10-31

File Number: LTB-L-015421-22

In the matter of: 1, 173 VARSITY RD
YORK ON M6S4P5

Between: Zhe Wang Landlord

And

Darril Mintz Tenant

Zhe Wang (the 'Landlord') applied for an order to terminate the tenancy and evict Darril Mintz (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on October 12, 2022. The Landlord, the Landlord's representative, Jinxing Wang, and the Tenant attended the hearing.

Determinations:

1. On March 2, 2022, the Landlord served the Tenant with a Notice to End the Tenancy Early for Non-payment of Rent (N4) with a termination date of March 16, 2022. On March 16, 2022, the same day as the date of termination on the N4, the Landlord applied to the Board with an L1 application to terminate the tenancy and to seek rent arrears.
2. Section 74(1) of the *Residential Tenancies Act, 2006* (the 'Act') does not permit the Landlord to apply to the Board to terminate the tenancy, on the basis of rent arrears, any earlier than the day following the termination date in the N4. Therefore, the earliest date the Landlord could have applied to terminate the tenancy was March 17, 2022. Accordingly, there is no jurisdiction for the Board to consider the Landlord's L1 application for the purpose of terminating the tenancy under s. 69 of the Act; however, jurisdiction remains for the purpose of seeking rent arrears only, pursuant to s. 87(1) of the Act.
3. The Landlord requested the Board proceed with her L1 application for rent arrears only pursuant to s. 87(1) of the Act. The Landlord understood the implications of her request. I therefore granted the Landlord's request.
4. As of the hearing date, the Tenant was still in possession of the rental unit.
5. The lawful rent is \$1,720.30. It is due on the 1st day of each month.
6. Based on the monthly rent, the daily rent/compensation is \$56.56. This amount is calculated as follows: \$1,720.30 x 12, divided by 365 days.
7. Both parties agreed that the Tenant has paid \$12,182.10 to the Landlord since the application was filed.

8. The Landlord testified that the rent arrears owing to October 31, 2022 are \$1,560.00. The Tenant testified that the only rent he owes to the Landlord is \$1720.30 for the month of April 2022. The Landlord submitted a rent update sheet, numerous rent deposit slips, and had a clear recollection of rent payments, while the Tenant required a significant amount of time to confirm the arrears owing. I therefore find the Landlord's testimony more compelling than the Tenant's. The Landlord's total of the rent arrears owing was also lower than the Tenant's total. For these reasons, and on the basis of the evidence provided, I find that the rent arrears owing to October 31, 2022 are \$1,560.00.
9. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
10. The Landlord collected a rent deposit of \$1,700.00 from the Tenant on March 13, 2021, and this deposit is still being held by the Landlord. The Landlord has not paid the Tenant any interest on this deposit. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated. As provided in paragraphs 2 and 3 above, termination of the tenancy will not be considered in this application.
11. The Tenant testified that at the time of the hearing he had no tenancy issues that he wanted to raise pursuant to s. 82 of the Act.

It is ordered that:

1. The Tenant shall pay to the Landlord \$1,746.00. This amount includes rent arrears owing of \$1,560.00 up to October 31, 2022, and \$186.00 for the cost of filing the application.
2. If the Tenant does not pay the Landlord the full amount owing on or before November 30, 2022, the Tenant will start to owe interest. This will be simple interest calculated from December 1, 2022 at 4.00% annually on the balance outstanding.

October 31, 2022
Date Issued

 Frank Ebner
 Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.