



**Order under Section 69
Residential Tenancies Act, 2006**

Citation: 2847000 Ontario Inc. v Keating, 2022 ONLTB 9576

Date: 2022-10-31

File Number: LTB-L-002222-21

In the matter of: 2, 10 CONNAUGHT AVE S
HAMILTON ON L8M3C2

Between: 2847000 Ontario Inc. Landlords
Meissy Quinn
Peter Riccio

And

Matthew G Keating, Tanya Davies Tenants

2847000 Ontario Inc, Meissy Quinn and Peter Riccio (the 'Landlords') applied for an order to terminate the tenancy and evict Matthew G Keating and Tanya Davies (the 'Tenants') because:

- the Tenants have been persistently late in paying the Tenant's rent.

The Landlords also claimed compensation for each day the Tenants remained in the unit after the termination date.

This application was heard by videoconference on October 18, 2022.

The Landlord's Representative, Andrew Choubeta and the Landlords attended the hearing. The Tenants attended the hearing and spoke to Tenant Duty Counsel prior to the hearing.

Determinations:

1. As explained below, the Landlords have proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, I will be issuing a conditional order that the Tenants must pay their rent in full and on time for the next twelve months.

Preliminary Issue- Name Change

2. The application is amended on consent of the parties to add Peter Riccio as a Landlord.

Preliminary Issue- Service of Notice

3. The Tenants assert the N8 Notice of Termination was not delivered to them in person on April 5, 2022 as stated on the Certificate of Service. They state that no one was home on that day. The Tenant, Tanya Davies was at her mother's home and the Tenant, Matthew Keating did not get home from work until 7:00 pm.

2022 ONLTB 9576 (CanLII)

4. They state the first time they were in receipt of the N8 Notice of Termination was on June 13, 2022, when the Board emailed them a copy of the L2 application and notice.
5. The Landlord's Legal Representative states he was the one who personally delivered the notice on April 5, 2022. He states the notice was delivered between 6:30 pm and 7:30 pm as he likes to deliver notices after business hours as the Tenants are more likely to be home.
6. He states on April 5, 2022, when he arrived at the residential complex to deliver the notice, he noticed a locked gate that he would require access to so he could get to the rental unit to serve the notice. He called the Landlord, Peter Riccio on that date at approximately 7:00 pm to see if he could gain access to the gate. The Landlord, Peter Riccio confirmed the Landlord's Legal Representative called him on that date for access to the gate.
7. Once he received access from the Landlord to the gate, he knocked on the door of the Tenant's rental unit and a male answered the door and was handed the Notice of Termination.
8. In addition to the service by the Landlord's Legal Representative, Angela Smith, an employee of the Law Firm representing the Landlords also hand delivered a copy of the N8 Notice of Termination to the Tenant's mailbox on April 5, 2022 and a copy was also mailed to the Tenants on April 5, 2022.
9. Based on the Landlord's testimony, I am satisfied that the Landlords gave the Tenants the N8 Notice of Termination in accordance with section 191 of the *Residential Tenancies Act, 2006* ("Act"). I find that the notice was served on April 5, 2022 in person, in the Tenant's mailbox and mailed to the Tenant's address on April 5, 2022.

Tenants were persistently late with the rent:

10. The Tenants were in possession of the rental unit on the date the application was filed.
11. The N8 Notice of Termination alleges the Tenants have been persistently late paying their rent.
12. I find that the Tenants have persistently failed to pay the rent on the date it was due. The rent is due on the 1st day of each month. The Landlord has established the Tenants were late paying their rent on May 1, 2021, August 1, 2021, February 1, 2022 and April 1, 2022, as alleged in the N8 Notice of Termination.
13. After the N8 Notice of Termination was served to the Tenants on April 5, 2022, they were late paying their rent for the months of June 2022 and August 2022.
14. The Tenants did not dispute that they have been persistently late paying their rent.
15. The Landlord's testified this has caused them financial issues and has been very stressful for both. Meissy Quinn had counselling to help her with the stress that was created by the Tenants not paying their rent on time.

16. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

Relief from Eviction

17. 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 pursuant to subsection 83(1)(a) of the Act.

18. The Tenant, Matthew Keating lost his job in 2021 due to COVID. He was also in a car accident in April 2022 which prevented him from being able to work. He has returned to work as of August 2022.

19. Since he has been back to work there have been no late payments of rent for September and October 2022.

20. The Tenants have two children that go to school in the neighborhood.

21. I find that the Tenant, Matthew Keating is now back at work with a steady income and should have sufficient funds to pay their rent in the future. It would not be unfair to give the Tenants a chance to continue the tenancy on the condition that rent is paid in full and on time for the next 12 months.

22. This order contains all reasons for the decision. No other reasons will be issued.

It is ordered that:

1. The tenancy between the Landlords and the Tenants continues if the Tenants meets the conditions set out below.
 - a) The Tenants pays the lawful monthly rent to the Landlords in full, on or before the first day of each month from November 1, 2022 to October 31, 2022.
2. If the Tenant fails to comply with the conditions set out in paragraph 1(a) of this order, the Landlords may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenants. The Landlords must make the application within 30 days of a breach of a condition. This application is made to the Board without notice to the Tenants.
3. The Tenants shall pay to the Landlords \$186.00 for the cost of filing the application.
4. If the Tenants do not pay the Landlords the full amount owing on or before November 11, 2022, the Tenants will start to owe interest. This will be simple interest calculated from November 12, 2022 at 4.00% annually on the balance outstanding.

October 31, 2022
Date Issued

Trish Carson
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.