



Order under Section 69 Residential Tenancies Act, 2006

Citation: Starlight (Pool XIV) v Garda, 2022 ONLTB 10123

Date: 2022-10-28

File Number: LTB-L-018300-22

In the matter of: 308, 3480 HAVENWOOD DR
MISSISSAUGA ON L4X2M8

Between: Starlight (Pool XIV) Landlord

And

Michal Garda Tenant

Starlight (Pool XIV) (the 'Landlord') applied for an order to terminate the tenancy and evict Michal Garda (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes. (L1 application)

This L1 application was heard by videoconference on October 12, 2022.

The Landlord's Legal Representative, Emma Bennett, and the Tenant attended the hearing. The Tenant consulted with Tenant Duty Counsel prior to the commencement of 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 \$1,853.98. It is due on the 1st day of each month.
4. Based on the monthly rent, the daily rent/compensation is \$60.95. This amount is calculated as follows: \$1,853.98 x 12 months, divided by 365 days.
5. The Tenant has paid \$9,420.77 to the Landlord since the L1 application was filed.
6. Based on the Landlord's records and submissions, the rent arrears owing to October 31, 2022 are \$5,498.92. This is the amount owing after the Tenant's payment in paragraph 5 above has been accounted for.
7. The Landlord incurred costs of \$186.00 for filing the L1 application and is entitled to reimbursement of those costs.
8. On February 1, 2020, the Landlord collected a rent deposit of \$1,832.00 from the Tenant and this deposit is still being held by the Landlord. According to the Landlord, interest has

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been paid on this deposit to December 31, 2021. The last month's rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.

9. The Tenant contested the amount of arrears owing, stating he believes he only owes two months of rent, that is \$3,707.96 up to October 31, 2022. He was unable to provide any proof of his position at the hearing and requested time to submit proof.
10. Also at the hearing, the Tenant requested relief from eviction by requesting a 3 to 6 month repayment conditional order to be issued. He testified that he had lost his job some 7 weeks ago but was able to secure another full-time job, which he stated will ensure he can pay back his arrears. The Tenant requested the repayment plan begin in November 2022, with arrears payments taking place on the 15th of each month.
11. After taking in submissions from both parties, I directed the Tenant to send to the LTB, with a copy to the Landlord, any evidence he may have to show he owes two months of rent, and not more. I gave him a deadline of 5:00 pm, October 17, 2022 to submit and he agreed to the deadline. I then gave the Landlord until 5:00 pm, October 24, 2022 to submit any rebuttal evidence.
12. I can confirm that the Tenant did not submit any evidence into the LTB by the deadline given. In other words, the Tenant was not able to prove on a balance of probabilities that he only owes \$3,707.96 up to October 31, 2022.
13. However, the Landlord did submit evidence on October 24, 2022, which supports the Landlord's claim for \$5,498.92 plus the \$186.00 filing fee. As well, the Landlord's submission included a statement that the parties did speak with one another post-hearing about the arrears. Further, the Landlord submitted the Landlord's agreement, and request, that a six-month repayment plan be ordered to accommodate the Tenant's request for a conditional order.
14. Based on the Landlord's submissions, including the post-hearing submissions, I am satisfied the arrears information provided by the Landlord is the correct information, and so I find. I also accept the Landlord's agreement, which I interpret to represent the Landlord's consent, to continue the tenancy but make it conditional on the Tenant paying back the full arrears, and filing fee, over a six month period. Of course, during the six month payment schedule being requested, the Tenant will also be required to pay all monthly rents in full and on time, so that the tenancy may continue without any eviction order being issued.
15. 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 subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.

It is ordered that:

1. In order for the tenancy to continue, and with reference to Schedule 1 below, the Tenant shall pay the Landlord **\$5,684.92** (the full amount owing), which includes:
 - \$5,498.92 for rent arrears owing up to October 31, 2022;
 - \$186.00 for the fee paid by the Landlord for filing the L1 application; and

2. The Tenant shall pay the Landlord the full amount set out in paragraph 1 according to the following schedule:

On or before date	Payment to be made	Reason
November 15, 2022	\$947.49	Arrears + filing fee
December 15, 2022	\$947.49	Arrears
January 15, 2023	\$947.49	Arrears
February 15, 2023	\$947.49	Arrears
March 15, 2023	\$947.49	Arrears
April 15, 2023	\$947.47	Balance of Arrears

3. The Tenant shall also pay the Landlord the full rent on or before the first (1st) day of each month for the period beginning on November 1, 2022 up to and including April 1, 2023, or until all arrears in paragraph 1 have been paid, whichever is sooner.
4. **CONSEQUENCES OF BREACH:** If the Tenant does not make any of the payments required in paragraphs 2 or 3 above, in full and on time:
- The Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenant, and for the payment of any new arrears of rent and NSF charges not already ordered under paragraph 1 of this order. The Landlord must make the application within 30 days of a breach of condition set out in paragraph 2 or 3. This normally results in the LTB issuing an eviction order without a hearing being held.

October 28, 2022
Date Issued

Alex Brkic
 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.

Schedule 1
SUMMARY OF CALCULATIONS

A. Amount the Tenant must pay to continue the tenancy

Rent Owing To October 31, 2022	\$14,919.69
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$9,420.77
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	\$5,684.92

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