



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

Citation: Pathapate v Donaldson, 2022 ONLTB 9970

Date: 2022-10-26

File Number: LTB-L-003807-22

In the matter of: 471 GRAND VALLEY DRIVE
CAMBRIDGE ON N3H2R9

Between: Soumya S. Kolluru Landlords
Suresh Kumar Pathapate

And

Michael Sebastian Tenants
Theresa Donaldson

Soumya S. Kolluru and Suresh Kumar Pathapate (the 'Landlords') applied for an order to terminate the tenancy and evict Michael Sebastian and Theresa Donaldson (the 'Tenants') because the Tenants have been persistently late in paying the Tenants' rent.

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

This application was heard by videoconference on September 20, 2022.

One of the Landlords, Suresh Pathapate, and the Landlords' Legal Representative, Jeff Shabes, attended the hearing.

As of 9:30 a.m., the Tenants were not present or represented at the hearing although properly served with notice of this hearing by the LTB. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. The Landlord served the Tenant with an N8 Notice of Termination on January 1, 2022 with a termination date of March 31, 2022, because the Tenants have persistently failed to pay the rent on the date it was due.
2. The Tenants are in possession of the rental unit.
3. The lawful monthly rent is \$1,053.49.
4. The Landlord is not holding a last month's rent deposit.
5. The rent is due on the first day of each month.

6. The Landlord is not holding a last month's rent deposit.
7. At the hearing, the Landlord's Legal Representative stated that the Tenants did not pay the rent on time and in full for 13 of the 13 months prior to the date the N8 Notice was served. The Landlord submitted the Tenants' rental ledger into evidence in support of their testimony.
8. Based on the Landlord's uncontested evidence, I find, on a balance of probabilities that the Tenants have been persistently late paying their rent.

Compensation

9. Based on the monthly rent, the daily compensation is \$34.64. This amount is calculated as follows: \$1,053.49 x 12 months, divided by 365 days.
10. The Landlord's Legal Representative stated that the Tenants has paid the rent owing to August 31, 2022 and that the rent for September 2022 remains outstanding. Therefore, the Tenants owes the Landlord \$692.80 in daily compensation for use and occupation of the rental unit for the period from September 1 to September 20, 2022.
11. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

Relief from eviction

12. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the Landlord's Legal Representative's submissions that the Tenants failed to pay the rent on time in 7 of the 8 months since the application was filed. As the Tenants did not attend and no other circumstances were presented to me, I find that 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 Landlord and the Tenants is terminated, as of November 6, 2022.
2. If the unit is not vacated on or before November 6, 2022, then starting November 7, 2022 the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. 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 November 7, 2022.
4. The Tenants shall pay to the Landlord \$692.80 which represents compensation for the use of the unit to September 20, 2022.

5. The Tenants shall also pay the Landlord compensation of \$34.64 per day for the use of the unit starting September 21, 2022 until the date the Tenants move out of the unit.
6. The Tenants shall pay to the Landlord \$186.00 for the cost of filing the application.
7. If the Tenants do not pay the Landlord the full amount owing on or before November 6, 2022 the Tenants will start to owe interest. This will be simple interest calculated from November 7, 2022 at 4.00% annually on the balance outstanding.

October 26, 2022

Date Issued

Kathleen Wells

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 of the Tenants expires on May 7, 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.