



Order under Section 21.2 of the Statutory Powers Procedure Act and the Residential Tenancies Act, 2006

Citation: Yin v Lohbihler, 2022 ONLTB 9872

Date: 2022-10-26

File Number: LTB-L-012457-22-RV

In the matter of: 26 GILHOLM AVE
CAMBRIDGE ON N1S1T2

Between: Liangan Yin, Yu Shen Landlord

And

Robert Lohbihler Tenants
Tevin Crosby

Review Order

Liangan Yin, Yu Shen (the 'Landlord') applied for an order to terminate the tenancy and evict Robert Lohbihler and Tevin Crosby (the 'Tenants') because the Tenants did not pay the rent that the Tenants owes.

This application was resolved by order LTB-L-012457-22 issued on September 7, 2022.

On September 15, 2022, the Tenants requested a review of the order.

On September 15, 2022, interim order LTB-L-012457-22-RV-IN was issued, staying the order issued on September 7, 2022.

This application was heard in by videoconference on October 13, 2022.

The Landlords and the Tenant, Robert Lohbihler, attended the hearing.

Determinations:

Review:

1. On August 31, 2022, due to technical problems with zoom, the Tenant joined the virtual wait room by phone, and entered the hearing room at 10:11 a.m. at which time the proceedings already took place.
2. On the basis of the submissions made, I find the Tenants was prevented from reasonably able to participate in the proceeding due to unexpected technical difficulty. Having attended, shows he had intentions of participating at the hearing. The review is granted. The Landlord's application is heard de novo.

L1 Application:

3. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenants 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.
4. As of the hearing date, the Tenants was still in possession of the rental unit.
5. The lawful rent is \$2,200.00. It is due on the 6th day of each month.
6. Based on the Monthly rent, the daily rent/compensation is \$72.33. This amount is calculated as follows: \$2,200.00 x 12, divided by 365 days.
7. The Tenants has paid \$13,870.00 since the application was filed.
8. The rent arrears owing to November 5, 2022 are \$6,730.00.
9. The Landlord collected a rent deposit of \$2,200.00 from the Tenants and this deposit is still being held by the Landlord. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
10. The Landlord paid \$186.00 for the cost of filing the application.
11. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenants and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The Tenant arrears started because after being laid off from work and when one of the Tenants stopped paying their portion of the rent. The Tenant indicated he has a room mate who will now be contributing to rent and the Tenants intends to preserve this tenancy.

It is ordered that:

1. The request to review order LTB-L-012457-22 issued on September 7, 2022 is granted.
2. Order LTB-L-012457-22 is cancelled and replaced by the following:
3. The tenancy between the Landlord and the Tenants is terminated unless the Tenants voids this order.
4. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 1. \$6,916.00 if the payment is made on or before November 5, 2022. See Schedule 1 for the calculation of the amount owing.

OR

 2. \$9,116.00 if the payment is made on or before November 7, 2022.
5. The Tenants may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenants has paid the full amount owing as ordered plus any additional rent

that became due after November 7, 2022 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.

6. **If the Tenants does not pay the amount required to void this order the Tenants must move out of the rental unit on or before November 7, 2022.**
7. The Tenants shall pay to the Landlord \$3,076.55*, which represents the amount of rent owing and compensation up to October 13, 2022 and the application fee less the rent deposit and interest the Landlord owes on the rent deposit.
8. The Tenants shall also pay the Landlord compensation of \$72.33 per day for the use of the unit starting October 14, 2022 until the date the Tenants moves out of the unit.
9. If the Tenants does not pay the Landlord the full amount owing on or before November 7, 2022, the Tenants will start to owe interest. This will be simple interest calculated from November 8, 2022 at 4.00% annually on the balance outstanding.
10. If the unit is not vacated on or before November 7, 2022, then starting November 8, 2022, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
11. 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 8, 2022.

2022 ONLTB 9872 (CanLII)

October 26, 2022
Date Issued

 Sandra Macchione
 Member, Landlord and Tenants 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 March 27, 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 Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before November 5, 2022

Rent Owing To November 5, 2022	\$20,600.00
Application Filing Fee	\$186.00

NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$13,870.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenants for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$
Total the Tenants must pay to continue the tenancy	\$6,916.00

Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before November 6, 2022

Rent Owing To December 5, 2022	\$22,800.00
Application Filing Fee	\$187.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$13,870.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenants for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$
Total the Tenants must pay to continue the tenancy	\$9,116.00

B. Amount the Tenants must pay if the tenancy is terminated

Rent Owing To Hearing Date	\$18,978.63
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$13,870.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$2,200.00
Less the amount of the interest on the last month's rent deposit	- \$18.08
Less the amount the Landlord owes the Tenants for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$
Total amount owing to the Landlord	\$3,076.55
Plus daily compensation owing for each day of occupation starting October 14, 2022	\$72.33 (per day)