



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

Citation: Ancaster Crown Jewel Inc. v Ork, 2024 ONLTB 35527

Date: 2024-06-03

File Number: LTB-L-061171-23

In the matter of: 16 Wilson St E
Ancaster ON L9G2B4

Between: Ancaster Crown Jewel Inc.

And

Lang Ork



Landlord

Tenant

Ancaster Crown Jewel Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Lang Ork (the 'Tenant') because:

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

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

This application was heard by videoconference on April 8, 2024.

The Landlord's Agent, Victor Sayed, and the Tenant attended the hearing.

Determinations:

Preliminary Issue

1. As explained below, the Tenant's request to hear this matter with the Tenant's T6 application, bearing file number LTB-T-002143-24, was denied.
2. The Tenant requested to have this matter heard with file LTB-T-002143-24 because he claims that any rent he owes would be offset by the maintenance claims the Tenant makes in the T6. When asked if the Tenant requested to pay rent into the Board pending his T6, he said no. The Landlord objected as maintenance issues can only be raised under section 82 of the Residential Tenancies Act, 2006 (the 'Act') on an application to terminate the tenancy based on arrears of rent and this was an application for termination due to persistent late rent.
3. Based on the parties' submissions, I denied the request to have the matters heard together. There was no time in the current hearing block to hear an additional matter, which would have meant that for the applications to be heard together, they would have both needed to be adjourned. I was not satisfied that hearing the matters separately would

result in inconsistent findings or that the applications have overlapping issues. Furthermore, the Tenant would not be prejudiced as his T6 matters are not relevant in determining the current application, however I did note that I would consider the maintenance issues under section 83 of the Act if they were serious and ongoing issues. Moreover, the Landlord would be prejudiced if the hearing had to be adjourned as the Landlord was present and ready to proceed and rescheduling would be unfair to the Landlord.

Persistent Late Payment

4. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the tenancy is terminated, and the Tenant shall vacate the unit by June 7, 2024.
5. The Tenant was in possession of the rental unit on the date the application was filed.
6. On August 2, 2023, the Landlord gave the Tenant an N8 notice of termination. The notice of termination contains the following allegations:
 1. The Tenant has failed to pay rent on the date it was due for 20 out of 24 months.
7. The Tenant has persistently failed to pay the rent on the date it was due. The rent is due on the 1st day of each month. The rent has been paid late 30 times in the past 32 months.
8. The Tenant did not dispute that he had paid rent late and much of his testimony was about how he promised to pay in the future. The Tenant admitted that he was still either paying late or not at all, even after the N8 notice was served. The Tenant claimed it was because the Landlord was not fixing maintenance issues but he also admitted that he knew he was supposed to be paying on time and in full.
9. The Landlord's Agent provided that as of October 31, 2023, the Tenant was in arrears of rent and continued to be in arrears as of the date of hearing. Furthermore, the Landlord's Agent provided that there is an order on file LTB-L-064850-23 granting arrears in the amount of \$10,986.00 up to January 31, 2024.
10. The Tenant was required to pay the Landlord \$14,203.20 in daily compensation for use and occupation of the rental unit for the period from November 1, 2023, to April 8, 2024. However, due to the order in LTB-L-064850-23 which covers arrears to January 31, 2024, daily compensation for use and occupation of the rental unit shall commence February 1, 2024, to April 8, 2024. Therefore, the Tenant was required to pay the Landlord \$6,036.36 in daily compensation.
11. Based on the Monthly rent, the daily compensation is \$88.77. This amount is calculated as follows: \$2,700.00 x 12, divided by 365 days.
12. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
13. The Landlord collected a rent deposit of \$2,300.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$226.41 is owing to the Tenant for the period from June 1, 2018, to April 8, 2024.

14. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenant is required to pay.

Section 83 Considerations


15. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and for the reasons explained below find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
16. The Landlord's Agent provided that he has attempted to work out payment plans with the Tenant in the past and the Tenant always breaches them and changes them. The Landlord's Agent indicated that the Tenant always has excuses and reasons for being late followed by empty promises to pay. The Landlord's Agent went on to provide that the Landlord is a small Landlord with only a few properties and the Landlord may be at risk for losing the unit or going into severe debt if the Tenant is not paying on time.
17. The Tenant testified that he went through a separation and his finances were messed up but he is in a better position now. The Tenant said he has custody of his 3 children 50% of the time and his elderly mother lives with him. The Tenant also testified that he has looked for alternate housing, but everything is too expensive. The Tenant also said he was late on rent or did not pay at all because of maintenance issues with the unit. The Tenant went on to say that the Landlord has since fixed the issues, but the Tenant felt the Landlord owed the Tenant money.
18. The Tenant also testified that he has 4.2 bitcoin worth about \$360,000.00 and he could pay the rent but was choosing to keep the investment over meeting his rent obligation. The Tenant testified that his income is not stable, and he can only pay when his clients pay him.
19. I have considered all of the evidence presented at the hearing and all of the oral testimony and although I may not have referred to each piece of evidence individually or referenced all of the testimony, I have considered it when making my determinations.
20. I find that the Tenant has demonstrated a pattern of being unable or unwilling to pay his rent on time. He provided several excuses for failing to pay on time, including maintenance issues that have been resolved. He has also prioritized holding his bitcoin over ensuring that his rent is paid on time, in accordance with the terms of the tenancy agreement. He has failed to comply with the parties' previous payment agreements. Accordingly, I am not satisfied that the Tenant would pay his rent on time if he was required to do so as a condition of maintaining the tenancy. Based on all of the circumstances of each party, I find it would be unfair to grant relief from eviction.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before June 14, 2024.
2. If the unit is not vacated on or before June 14, 2024, then starting June 15, 2024, 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 June 15, 2024.
4. The Tenant shall pay to the Landlord \$6,036.36, which represents compensation for the use of the unit from February 1, 2024, to April 8, 2024.
5. The Tenant shall also pay the Landlord compensation of \$88.77 per day for the use of the unit starting April 9, 2024, until the date the Tenant moves out of the unit.
6. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
7. The Landlord owes \$2,526.41 which is the amount of the rent deposit and interest on the rent deposit, and this is deducted from the amount owing by the Tenant.
8. The total amount the Tenant owes the Landlord is \$3,695.95.
9. If the Tenant does not pay the Landlord the full amount owing on or before June 14, 2024, the Tenant will start to owe interest. This will be simple interest calculated from June 15, 2024 at 7.00% annually on the balance outstanding.

June 3, 2024
Date Issued



Nicole Pedron
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 Tenant expires on December 15, 2024 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.