



Order under Section 69 Residential Tenancies Act, 2006

Citation: Callari v Giglione, 2024 ONLTB 36714

Date: 2024-05-27

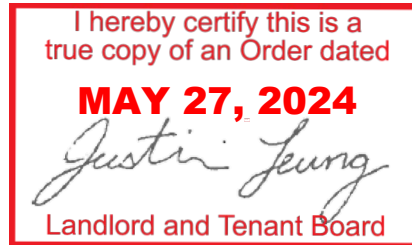
File Number: LTB-L-000802-24

In the matter of: Basement/Lower Unit, 60 NUGENT DR
HAMILTON ON L8H2M8

Between: Joseph Callari

And

Megan Giglione



Landlord

Tenant

Joseph Callari (the 'Landlord') applied for an order to terminate the tenancy and evict Megan Giglione (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on May 9, 2024.

The Landlord, Landlord's Legal Representative, Jennifer Schmitz, and the Tenant attended the hearing.

Preliminary Matter:

1. The Tenant requested an adjournment, as they had only recently received the Landlord's disclosure material and also want to possibly raise section 82 tenant issues. In addition, they stated they had not seen the materials on the Tribunals Ontario Portal (TOP). As such, they want additional time to prepare for this L1 application. The Landlord's Legal Representative objected to this request and submitted that Tenant had been sent the disclosure material in accordance with Rule 19 and should have had sufficient time to prepare for this hearing. Based on the information provided, and in consideration of Rule 21, I did not allow an adjournment. It is noted that the Notice of Hearing (NOH) had been sent to the Tenant in January 2024. The Tenant should have had sufficient time to prepare for the hearing, including submitting material in relation to section 82 issues. The Tenant stated they intended to file tenant application. As such, they could address tenant issues through that process. It is further noted that the Tenant had not indicated they wanted disclosure material to be provided to them on the TOP portal. In addition, the claimed arrears are now approximately \$26,600.00 with no recent rent payments by the Tenant. As such, an adjournment would be prejudicial to the Landlord as the rent arrears could increase. We then proceeded to the merits hearing of the application.

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 \$1,900.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$62.47. This amount is calculated as follows: \$1,900.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to May 31, 2024 are \$25,500.00.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$1,900.00 from the Tenant 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.
9. Interest on the rent deposit, in the amount of \$101.64 is owing to the Tenant for the period from March 20, 2022 to May 9, 2024.
10. 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 postpone the eviction until July 11, 2024 pursuant to subsection 83(1)(b) of the Act. The Tenant had proposed a repayment plan for approximately 2 years to pay the rent arrears, indicated they are received government support and will soon have child support payments. The Landlord's Legal Representative stated they do not believe Tenant has the financial means to support such a plan. Based on the information provide, I find that the repayment plan may not be feasible as the Tenant is relying on government programs with no information provided on how long the Tenant will continue to receive funding from these programs. However, in recognizing the Tenant is a single mother of 2 children, and has resided in the rental unit since 2022, I believe a postponed eviction by approximately 45 days would be appropriate to provide the Tenant sufficient time to seek new accommodations.

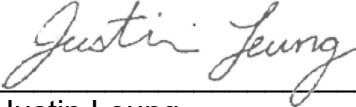
It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
 2. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$25,686.00 if the payment is made on or before May 31, 2024. See Schedule 1 for the calculation of the amount owing.
- OR**
- \$27,586.00 if the payment is made on or before June 30, 2024. See Schedule 1 for the calculation of the amount owing.

OR

- \$29,486.00 if the payment is made on or before July 11, 2024. See Schedule 1 for the calculation of the amount owing.
3. The Tenant may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenant has paid the full amount owing as ordered plus any additional rent that became due after July 11, 2024 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
 4. **If the Tenant does not pay the amount required to void this order the Tenant must move out of the rental unit on or before July 11, 2024**
 5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$22,346.59. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.
 6. The Tenant shall also pay the Landlord compensation of \$62.47 per day for the use of the unit starting May 10, 2024 until the date the Tenant moves out of the unit.
 7. If the Tenant does not pay the Landlord the full amount owing on or before July 11, 2024, the Tenant will start to owe interest. This will be simple interest calculated from July 12, 2024 at 7.00% annually on the balance outstanding.
 8. If the unit is not vacated on or before July 11, 2024, then starting July 12, 2024, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
 9. 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 July 12, 2024.

May 27, 2024
Date Issued



Justin Leung
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 expires on January 12, 2025 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 Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before May 31, 2024

Rent Owing To May 31, 2024	\$25,500.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total the Tenant must pay to continue the tenancy	\$25,686.00

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before June 30, 2024

Rent Owing To June 30, 2024	\$27,400.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total the Tenant must pay to continue the tenancy	\$27,586.00

C. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before July 11, 2024

Rent Owing To July 31, 2024	\$29,300.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00

Total the Tenant must pay to continue the tenancy	\$29,486.00
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D. Amount the Tenant must pay if the tenancy is terminated

Rent Owing To Hearing Date	\$24,162.23
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$1,900.00
Less the amount of the interest on the last month's rent deposit	- \$101.64
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlord	\$22,346.59
Plus daily compensation owing for each day of occupation starting May 10, 2024	\$62.47 (per day)