



Order under Section 69 Residential Tenancies Act, 2006

Citation: Royal York Property Management v Gagliardi, 2024 ONLTB 50007

Date: 2024-07-10

File Number: LTB-L-009226-24

In the matter of: 113 AISHFORD RD
BRADFORD ON L3Z0A7

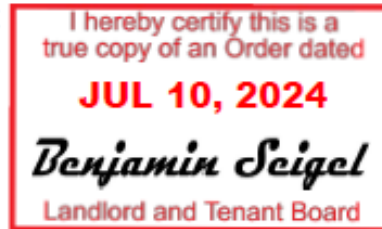
Between: Royal York Property Management
Shixin Wei

Landlord

And

Giovanni Gagliardi
Michael Gagliardi

Tenant



Royal York Property Management and Shixin Wei (the 'Landlord') applied for an order to terminate the tenancy and evict Giovanni Gagliardi and Michael Gagliardi (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on .

The Landlord's Agent Rina Zariqi, the Landlord and the Tenant, Michael Gagliardi, attended the hearing.

When the capitalized word "Landlord" is used in this order, it refers to all persons or companies identified as a Landlord at the top of the order. When the capitalized word "Tenant" is used in this order, it refers to all persons identified as a Tenant at the top of the order.

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 \$3,250.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$106.85. This amount is calculated as follows: \$3,250.00 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 June 30, 2024 are \$31,200.00.

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 \$3,200.00 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 \$125.49 is owing to the Tenant for the period from April 19, 2022, to June 4, 2024.
10. The Landlord seeks a termination of the tenancy as the rent arrears are substantial. The Landlord and Tenant previously entered into a payment agreement, but the Tenant made no payments under that agreement and as of the date of the hearing the last payments to the Landlord of new rent or arrears were prior to December, 2023. The Landlord is retired and counts on the rent from this rental unit. Not receiving rent for a protracted period is difficult for the Landlord financially. The Landlord testified that after receiving no payments under the previous payment agreement the trust he has for the Tenant is gone.
11. The Tenant is seeking an order for a payment plan for the rental arrears. The Tenant stated they could make a payment of one month's rent by June 19, 2024 could pay \$10,000.00 by July 31, 2024, could pay \$5,000.00 on or before each of August 30, 2024, September 25, 2024, and October 30, 2024, and \$3,136 .00 to pay the remaining arrears on November 29, 2024 in addition to paying the new rent as it comes due. The Tenant's explanation for why they had paid no rent to date was that each of Giovanni Gagliardi and Michael Gagliardi had been dealing with employment issues, but were now both employed in full time secure positions. The Tenant testified that they hadn't paid rent yet for June as they wanted to catch up on utility bills and insurance prior to do doing so and that these bills were now brought to 0, which would allow the Tenant to make the significant arrears payments proposed. They wish to maintain this tenancy and pay off the rental arrears, and additionally want to stay in this location as Michael Gagliardi's mother, who is 76, lives with Tenant and the rental unit is in the perfect location to access her doctor. The Tenant's explanation for not making any payments under the previous repayment plan was that there were unexpected issues with employment after it was entered into.
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 previous repayment agreement between the Tenant and the Landlord under which no payments were made, and that the Tenant had made no payments to the Landlord for more than 6 months as of the date of the hearing, 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 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:**
 - \$34,636.00 if the payment is made on or before July 21, 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 21, 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 21, 2024**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$25,237.91. 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 \$106.85 per day for the use of the unit starting 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 21, 2024, the Tenant will start to owe interest. This will be simple interest calculated from July 22, 2024 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before July 21, 2024, then starting July 22, 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 22, 2024.

July 10, 2024
Date Issued

Benjamin Seigel

Benjamin Seigel
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 22, 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 July 21, 2024

Rent Owing To July 31, 2024	\$34,450.00
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	\$34,636.00

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

Rent Owing To Hearing Date	\$28,377.40
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	- \$3,200.00
Less the amount of the interest on the last month's rent deposit	- \$125.49
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	\$25,237.91
Plus daily compensation owing for each day of occupation starting	\$106.85 (per day)