



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

Citation: Di gregorio v Bassily, 2024 ONLTB 41407

Date: 2024-06-14

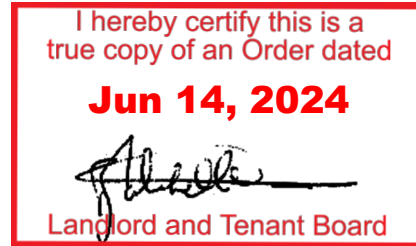
File Number: LTB-L-046180-23-RV

In the matter of: 204, 1015 TERRA VERDE WAY
KINGSTON ON K7P0T8

Between: Sandra Di gregorio

And

Bishoy Bassily



Landlord

Tenant

Review Order

Sandra Di gregorio (the 'Landlord') applied for an order to terminate the tenancy and evict Bishoy Bassily (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-046180-23 issued on February 23, 2024. The Tenant was not present or represented at the February 8, 2024 hearing when the matter was called.

On March 6, 2024, the Tenant requested a review of the order, and that the order be stayed until the request to review the order is resolved.

On March 12, 2024, interim order LTB-L-046180-RV-IN was issued pending the outcome of a preliminary review.

On April 4, 2024 interim order LTB-L-046180-23-RV-IN2 was issued, maintaining the stay of the order issued on February 23, 2024.

This application was heard in by videoconference on May 28, 2024.

The Landlord's Legal Representative Ian MacInnis, the Landlord's instructing client Danny Milne, the Landlord and the Tenant attended the hearing.

Determinations:

Request to Review

1. The Landlord consented to the Tenant's request to review the hearing.
2. The request to review was granted and a rehearing of only the merits of the L1 application proceeded.

L1 Application

3. 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.
4. As of the hearing date, the Tenant was still in possession of the rental unit.
5. The lawful rent is \$2,506.12. It is due on the 1st day of each month.
6. Based on the Monthly rent, the daily rent/compensation is \$82.39. This amount is calculated as follows: \$2,506.12 x 12, divided by 365 days.
7. The Tenant has not made any payments since the application was filed.
8. The rent arrears owing to May 31, 2024 are \$33,596.72.
9. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
10. The Landlord collected a rent deposit of \$2,445.00 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.

Section 82 issues

11. The Tenant had submitted a list of issues they intended to raise at the hearing in accordance with section 82 of the RTA. However, that issues form was lacking in specific details. Other than the first column no other details were provided other than to refer to additional documents. I was not satisfied that there was sufficient details for the Landlord to know the case they had to respond to based on the lack of specifics.
12. In addition, the Tenant was not organized in a manner where he could present these issues and any relevant evidence in a coherent manner. The Tenant could only refer to emails they had sent the Board and was not able to refer to a specific document name in the Portal where any document submitted could be found. A review of some of those emails revealed that they had not been sent to the Landlord. Although the Tenant indicated that they had sent everything to the Landlord, the Landlord testified that they may not have received everything, since they were not able to open all the documents provided.
13. As a result, I determined that the Tenant was not prepared for the hearing to be able to set out his evidence in a cogent manner, and therefore declined to hear the section 82 issues.
14. I note also that these issues were not raised in advance of the February 8, 2024, initial hearing. There were no issues submitted in advance. The Tenant was aware of this requirement as it was explained in the November 22, 2023 hearing and expressed in the LTB Interim Order LTB-L-046180-23-IN issued on January 19, 2024.
15. The Tenant was advised that it would be very unlikely that the Board would award a remedy amounting to a 100% abatement of rent. The Tenant was advised to seek legal advice for assistance in submitting their own tenant T2/T6 applications with the LTB.

Relief from Eviction

16. The Tenant testified that they were seeking a payment plan. They proposed that the Tenant could afford to pay lawful rent and arrears in amount of \$2,800.00.
17. The Tenant testified that they have just started a new contract position. Prior to that they had been attending school, after leaving their civil service employment in August 2023. The Tenant testified that they were self-employed teaching high school while attending school themselves.
18. The Tenant testified that they have also resolved the Enbridge utilities outstanding amounts and were hoping to make arrangement with Hydro One regarding that outstanding utility amount.
19. The Tenant testified that they have a 14-year-old child at home and a 6-year-old that visits them.
20. The Landlord requested that the Board not grant relief from eviction.
21. I am not satisfied on a balance of probabilities that the tenancy can be salvaged. A payment plan that exceeds 10 years is extraordinarily excessive. The Tenant admitted to deliberately stopping to pay rent for reasons that may relate to a future T2/T6 application. Tenants cannot simply refuse to pay rent; they are obligated to pay rent to a Landlord and in the case of a T6 application may ask the LTB for permission to pay the rent into the Board.
22. The Act's monetary jurisdiction pursuant to subsection 207(1) of the Act permits the Board to order the Tenant to pay the Landlord up to \$35,000.00 plus costs, if the tenancy is terminated and the Tenant vacates the rental unit. The Divisional Court's reasons in *Horstein et al v. Royal Bank of Canada, 2010 ONSC 3134 (Div. Ct.) (CanLII)*, however permit the Board to determine that the Tenant must pay the full amount of rental arrears owed, if the Tenant wishes to void the order under section 74 of the Act.
23. 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 Tenant and 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 request to review order LTB-L-046180-23 issued on February 8, 2024 is granted.
2. The order LTB-L-046180-23 is cancelled and replaced as follows.
3. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.

4. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 1. \$36,288.84 if the payment is made on or before June 25, 2024. See Schedule 1 for the calculation of the amount owing.
5. 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 June 25, 2024 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
6. **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 June 25, 2024**
7. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$31,090.55. 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.
8. The Tenant shall also pay the Landlord compensation of \$82.39 per day for the use of the unit starting May 29, 2024 until the date the Tenant moves out of the unit.
9. If the Tenant does not pay the Landlord the full amount owing on or before June 25, 2024, the Tenant will start to owe interest. This will be simple interest calculated from June 26, 2024 at 7.00% annually on the balance outstanding.
10. If the unit is not vacated on or before June 25, 2024, then starting June 26, 2024, 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 June 26, 2024.

June 14, 2024
Date Issued



Robert Patchett
Vice Chair, 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 December 26, 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.

**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 June 25, 2024

Rent Owing To June 30, 2024	\$36,102.84
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	\$36,288.84

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

Rent Owing To Hearing Date May 28, 2024	\$33,349.55
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	- \$2,445.00
Less the amount of the interest on the last month's rent deposit	- \$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 amount owing to the Landlord	\$31,090.55
Plus daily compensation owing for each day of occupation starting May 29, 2024	\$82.39 (per day)