



Order under Section 69 Residential Tenancies Act, 2006

Citation: TT7 INC. v Settle, 2024 ONLTB 53428

Date: 2024-07-30

File Number: LTB-L-026484-24

In the matter of: 510, 70 KING ST E
OSHAWA ON L1H0A2

Between: TT7 INC.

And

Ben Settle

I hereby certify this is a
true copy of an Order dated

Jul 30, 2024

Rachel Gibbens

Landlord and Tenant Board

Landlord

Tenant

TT7 INC. (the 'Landlord') applied for an order to terminate the tenancy and evict Ben Settle (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on July 3, 2024.

Only the Landlord's Agent Alex Poon attended the hearing.

As of 10:49 am, the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

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 \$1,477.31. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$48.57. This amount is calculated as follows: \$1,477.31 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 July 31, 2024 are \$11,818.48
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 \$1,477.31 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 \$35.72 is owing to the Tenant for the period from July 17, 2023 to July 3, 2024.

Relief from Eviction / Section 83 of the Act

10. The Landlord's Agent requested a standard order. As the Tenant was not present to speak to their circumstances, the Landlord's Agent was asked if they were aware of any circumstances of the Tenant that would give rise to delaying or denying eviction. The Landlord's Agent submitted that they were not aware of any such circumstances.
11. I considered whether the Landlord attempted to negotiate a repayment agreement with the Tenants pursuant to subsection 83(6) of the *Residential Tenancies Act, 2006* (the 'Act'). The Landlord's Agent stated that the Landlord's office provided rent notices every month to the Tenant and that the superintendent had texted the Tenant about the rent, but the Tenant does not respond. The Landlord's Agent advised that the last communication to the Tenant regarding the arrears was on or about June 15, 2024 and no payments have been made since the application was filed with the Board.
12. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act and, based on the evidence submitted and the quantum of arrears, I find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act as it would be prejudicial to the Landlord.

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:**
 - \$12,004.48 if the payment is made on or before July 31, 2024. See Schedule 1 for the calculation of the amount owing.

OR

 - \$13,481.79 if the payment is made on or before August 10, 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 August 10, 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 August 10, 2024**

5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$9,159.85. 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 \$48.57 per day for the use of the unit starting July 4, 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 August 10, 2024, the Tenant will start to owe interest. This will be simple interest calculated from August 11, 2024 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before August 10, 2024, then starting August 11, 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 August 11, 2024.

July 30, 2024
Date Issued

Rachel Gibbons
Rachel Gibbons
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 February 11, 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 31, 2024

Rent Owing to July 31, 2024	\$11,818.48
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
Total the Tenant must pay to continue the tenancy	\$12,004.48

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before August 10, 2024

Rent Owing to August 31, 2024	\$13,295.79
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
Total the Tenant must pay to continue the tenancy	\$13,481.79

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

Rent Owing to Hearing Date	\$10,486.88
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 of the last month's rent deposit	- \$1,477.31
Less the amount of the interest on the last month's rent deposit	- \$35.72
Total amount owing to the Landlord	\$9,159.85
Plus daily compensation owing for each day of occupation starting July 4, 2024	\$48.57 (per day)