



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** Masud v Crane, 2024 ONLTB 19835

**Date:** 2024-03-22

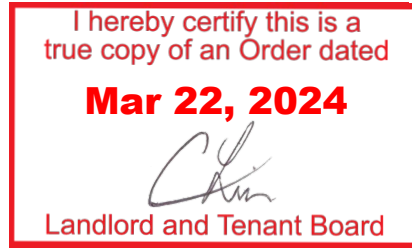
**File Number:** LTB-L-053989-23

**In the matter of:** 3207 STOCKSBRIDGE AVE  
OAKVILLE ON L6M0A7

**Between:** Ashan Masud  
Nauroze Ahsan

**And**

Ryan Crane



Landlords

Tenant

Ashan Masud and Nauroze Ahsan (the 'Landlords') applied for an order to terminate the tenancy and evict Ryan Crane (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on December 4, 2023.

The Landlord, A. Masud, the Landlords' Legal Representative, G. Kaur and the Tenant attended the hearing.

### Determinations:

#### Preliminary Issue - Adjournment Request

1. At the hearing, the Tenant requested an adjournment due to his mental health disabilities. The Tenant testified that in February 2023, he was diagnosed with bipolar disorder.
2. The Notice of Hearing for this Application was served by the Board on August 22, 2023. At the hearing, the Tenant testified that he had received the Notice of Hearing in August 2023 but had felt it was far away and just reviewed the documents the day before the hearing.
3. The Tenant did not provide any supporting documentation to support their medical claim or their need for accommodation. He also did not provide any evidence to establish that he had taken reasonable steps to ensure that he had legal representation for the hearing. While I was prepared to accept that the Tenant may have a disability, I was not satisfied on the evidence before me that an adjournment was necessary in order for a fair and adequate hearing. Moreover, I considered the significant prejudice an adjournment would cause to the Landlords as a result of the significant amount of arrears in this matter. As a result, I denied the request to adjourn the hearing.
4. After announcing my decision, I made it clear to the Tenant that he could request accommodations within the hearing process, if needed, such as more frequent breaks.

L1 Application – Non-Payment of Rent

5. The Landlords 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.
6. As of the hearing date, the Tenant was still in possession of the rental unit.
7. The lawful rent is \$3,330.00. It is due on the 1st day of each month.
8. Based on the Monthly rent, the daily rent/compensation is \$109.48. This amount is calculated as follows: \$3,330.00 x 12, divided by 365 days.
9. The Tenant has not made any payments since the application was filed.
10. The rent arrears owing to December 31, 2023 are \$29,970.00.
11. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
12. The Landlords collected a rent deposit of \$3,250.00 from the Tenant and this deposit is still being held by the Landlords. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
13. Interest on the rent deposit, in the amount of \$128.93 is owing to the Tenant for the period from October 27, 2020 to December 4, 2023.

Relief from Eviction

14. 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 Landlords 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.
15. The Tenant requested that I deny or delay eviction under subsection 83(1) of the *Residential Tenancies Act, 2006* (the 'Act'). The Landlords opposed any relief.
16. I accept the Tenant's evidence that he fell behind in rent in part after being diagnosed with bipolar disorder in February 2023, and was manic which inhibited his ability to pay the rent. The Tenant testified that he was unable to work his regular job as a real estate agent due to his mental health disabilities. The Tenant testified that his current source of income is ODSP in the amount of \$733.00 per month, which is well below the rent for the rental unit. The Tenant testified that he had filed a patent for a product that he believed would allow him to pay all of the rental arrears. He did not provide any supporting evidence of this potential income, and I decline to find on a balance of probabilities that the Tenant may soon obtain the funds. The Tenant also testified that he was not able to afford hydro and had debt of approximately \$130,000.00 due to gambling.
17. The Tenant testified that he has two adult dependents who attend university in a different city and were living outside the rental unit during their school year and spent their vacation time split between their mother's residence and the Tenant's rental unit.

18. On the other hand, I also accepted the Landlords' evidence that the amount of the arrears is significant and that it has impacted the Landlords' finances. Although on a personal basis, the Landlords appear to have an amicable relationship with the Tenant, the Landlords testified that "carrying" the Tenant was financially devastating for the Landlords. I also accept the Landlords and the Tenant's evidence that the Landlords attempted to negotiate a payment plan, but that terms of agreement could not be agreed upon because the Tenant does not have the financial resources to commit to a specific repayment plan. The Tenant testified that he was in a bad financial situation and that he was not certain when he would be able to commit to paying the arrears.
19. In my view, this is not an appropriate case to impose a payment plan in favour of eviction because I am satisfied that the tenancy is not viable. The Tenant cannot afford the rent, let alone paying the rent while also paying off the significant amount of arrears that have accrued.
20. While I heard evidence of disability, I am not satisfied on the evidence before me that the Tenant's disability has directly caused his inability to pay his arrears. Even if I were, I am satisfied that the Landlords accommodated the Tenant by attempting to negotiate a payment plan with him, and that it would constitute an undue hardship to continue this tenancy, which the Tenant cannot afford.
21. As for whether it would be appropriate to postpone termination, in my view it would be unfair in the circumstances to do so. The arrears are substantial, and the Tenant has not paid any rent in almost one year.


**It is ordered that:**

1. The tenancy between the Landlords 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 Landlords or to the LTB in trust:**
  - \$40,146.00 if the payment is made on or before March 31, 2024. See Schedule 1 for the calculation of the amount owing.
- OR**
- \$43,476.00 if the payment is made on or before April 2, 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 April 2, 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 April 2, 2024**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlords \$23,884.99. 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 Landlords owe 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 Landlords compensation of \$109.48 per day for the use of the unit starting December 5, 2023 until the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlords the full amount owing on or before April 2, 2024, the Tenant will start to owe interest. This will be simple interest calculated from April 3, 2024 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before April 2, 2024, then starting April 3, 2024, the Landlords 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 Landlords on or after April 3, 2024.

**March 22, 2024**  
**Date Issued**

  
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Christopher Lin  
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 October 3, 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 March 31, 2024**

Rent Owing To March 31, 2024	\$39,960.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlords since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlords owe the Tenant for an{abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$40,146.00</b>

**B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before April 2, 2024**

Rent Owing To April 30, 2024	\$43,290.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlords since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlords owes the Tenant for an{abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$43,476.00</b>

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

Rent Owing To Hearing Date	\$27,077.92
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlords since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount of the last month's rent deposit	- \$3,250.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$128.93
<b>Less</b> the amount the Landlords owe the Tenant for an {abatement/rebate}	- \$0.00

<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total amount owing to the Landlords</b>	<b>\$23,884.99</b>
Plus daily compensation owing for each day of occupation starting December 5, 2023	\$109.48 (per day)