



**Order under Section 69  
Residential Tenancies Act, 2006**

**Citation:** McCotter v Hughes, 2024 ONLTB 16524

**Date:** 2024-03-04

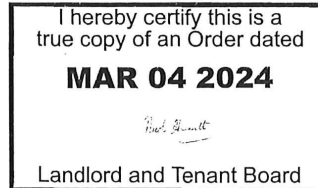
**File Number:** LTB-L-082242-23

**In the matter of:** 141 Station Street  
St. Mary's ON N4X1A5

**Between:** Stephen McCotter

**And**

Richard Hughes



Landlord

Tenant

Stephen McCotter (the 'Landlord') applied for an order to terminate the tenancy and evict Richard Hughes (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on February 26, 2024.

The Landlord and the Tenant attended the hearing.

**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 \$2,000.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$65.75. This amount is calculated as follows: \$2,000.00 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 February 29, 2024 are \$24,000.00.
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 \$2,000.00 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.

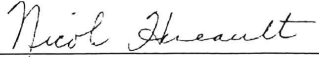
9. Interest on the rent deposit, in the amount of \$72.74 is owing to the Tenant for the period from September 14, 2022 to February 26, 2024.
10. The Tenant testified that he does not have any income at the moment but is working on a couple new contracts with his work in the near future but did not provide any definite payment dates. He has not made any payments toward the arrears or any monthly rental payments since the February 2023.
11. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act because I do believe this tenancy is viable.

**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:**
  - \$26,186.00 if the payment is made on or before March 15, 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 March 15, 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 March 15, 2024**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$21,822.76. 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 \$65.75 per day for the use of the unit starting February 27, 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 March 15, 2024, the Tenant will start to owe interest. This will be simple interest calculated from March 16, 2024 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before March 15, 2024, then starting March 16, 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 March 16, 2024.

**March 4, 2024**  
**Date Issued**

  
\_\_\_\_\_  
Nicole Huneault  
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 September 16, 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 15, 2024**

Rent Owing To March 31, 2024	\$26,000.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord 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 Landlord 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>\$26,186.00</b>

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

Rent Owing To Hearing Date	\$23,709.50
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord 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	- \$2,000.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$72.74
<b>Less</b> the amount the Landlord 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 amount owing to the Landlord</b>	<b>\$21,822.76</b>
Plus daily compensation owing for each day of occupation starting February 27, 2024	\$65.75 (per day)



**ONTARIO  
SUPERIOR COURT OF JUSTICE**

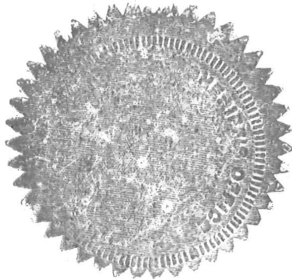
Eviction

Between:

Reference File No.: LTB-L-082242-23

Order Date: 04-Mar-24

Additional Court Files:



STEPHEN McCOTTER

Landlord/Mortgagee

- and -

RICHARD HUGHES

Tenant/Mortgagor/Any  
other occupant

**NOTICE TO VACATE**

**TO: Tenant/Mortgagor/Any other occupant**

**I AM NOTIFYING YOU** that by virtue of an order for vacant possession issued out of the:

LANDLORD AND TENANT BOARD

directed to me as sheriff to enforce, **I COMMAND YOU** to vacate the premises municipally

known as

141 STATION STREET  
ST MARYS, ON  
N4X 1A5

on or before <sup>dd-mmm-yy</sup> 04-Apr-24

at 08:30 a.m.

**AND FURTHER TAKE NOTICE** that if you fail to VACATE the premises as directed by the above referenced order by the date shown, I will, without further notice to you, carry out the order as directed.

DATED at Stratford

this

March 18, 2024

  
Sheriff

The order is being executed pursuant to the instructions of:

STEPHEN McCOTTER

(519) 301-0618 EXT:

PHONE: 519-271-1850

FAX: 519-271-8080

*Landlord/Agent or Mortgagee/Agent*