



## Order under Section 69 Residential Tenancies Act, 2006

Citation: Dolan v Young, 2023 ONLTB 25683

Date: 2023-03-22

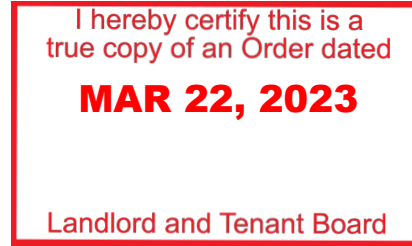
File Number: LTB-L-076885-22

**In the matter of:** 501, 45 HOLLAND AVE  
OTTAWA ON K1Y4S3

**Between:** Anna Dolan  
Peter Dolan

**And**

Christopher Young



Landlord

Tenant

Anna Dolan and Peter Dolan (the 'Landlord') applied for an order to terminate the tenancy and evict Christopher Young (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on March 6, 2023.

Both of the Landlords 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 \$1,550.00. It is due on the 1st day of each month.
4. Based on the monthly rent, the daily rent/compensation is \$50.96. This amount is calculated as follows: \$1,550.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed. The Tenant acknowledged that he was behind in rent due to personal issues.
6. The Landlord seeks a standard eviction order.
7. The rent arrears owing to March 31, 2023 are \$13,419.20.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

### Section 82 issues:

9. The Tenant states that:

- The Landlords attempted to coerce him into vacating the rental unit;
- The Landlords illegally entered the rental unit on October 24, 2022; and
- The Landlords breached the Tenant's privacy by discussing issues they had with the Tenant with people the Tenant knows and he was then essentially accused of squatting by another individual.

*Coercion:*

10. The Tenant acknowledges that he was in rent arrears and felt guilty that he had not paid rent for some time. The Tenant submits that despite the lease indicating that the lease expired as at October 31, 2022, the Landlord attempted to terminate the lease earlier, without proper notice, by attempting to coerce the Tenant to vacate the rental unit by the end of September, 2022.
11. The Landlord disputes this allegation and states that there was no coercion. The Landlord submits that they discussed the lease with the Tenant and the possibility of the Tenant vacating the rental unit earlier which resulted in the Tenant advising them he would leave the rental unit by September 30, 2022.
12. A definition of "coercion" found in the dictionary generally means to impose one's will on another by means of force or threats. I am not persuaded that the actions or behaviours of the Landlords constituted a significant threat or some form of interference, coercion or obstruction. I do not find the circumstances described amounts to coercion as meant by the *Act*, in particular that the Landlords coerced the Tenant into doing something against his wishes.

*Illegal Entry:*

13. The Tenant states that on October 24, 2022 he received a text message from the Landlords stating that "all locks have been changed, all staff advised that you no longer have tenancy". The Tenant states that he attended the rental unit and discovered that his key did not work. The Tenant knocked on the door to which the Landlords opened the door.
14. The Tenant testified that he contacted police and went outside to wait for their attendance. As time passed without police attendance, the Tenant stated he returned to the rental unit only to discover his belongings on a cart in the hallway. A photograph tendered into the evidence shows a rubber container with a suitcase and box on top of it all stacked on a metal cart.
15. The Tenant testified that he confronted the Landlords by asking that his belongings be returned but an altercation then occurred where the Landlord rammed a cart carrying the Tenant's belongings into his leg which caused an injury to his leg.
16. The Landlords state that they believed the Tenant's tenancy had ended as he had told them he would be leaving the rental unit at the end of September, 2022. No keys were returned to the Landlords however the Tenant had emailed the Landlords on September 30, 2022 stating that the Tenant would not be returning the keys until the lease agreement

had been completed or “due process as afforded” to the Tenant under the “Ontario Landlord Tenant laws”.

17. The Landlords submit that on October 24, 2022, they believed the Tenant was trespassing and therefore changed the locks. The Landlords state that the Tenant came towards them and that he was yelling at them including yelling the word “assault” at which time he then stepped in front of the cart. The Landlords state that police attended, they interviewed both parties and no charges were laid as there was no evidence of any criminal activities.
18. The Landlords testified that that they were only in the rental unit for approximately 2 hours and that they provided the keys to the police to return to the Tenant.
19. Section 26 of the *Residential Tenancies Act*, 2006 (the ‘Act’) states that a landlord is permitted to enter a rental unit without notice in cases of emergencies or if the tenant consents to the entry at the time of entry. I am satisfied that despite the Tenant informing the Landlords on September 30, 2022 that he would not be vacating the rental unit, the Landlords entered the unit, changed the locks and did not provide replacement keys to the Tenant for approximately 2 hours. The evidence before me suggests that the Landlords knew, or should have known, that the Tenant had not yet vacated.
20. Based on the evidence and submissions before me, I am satisfied on a balance of probabilities that the Landlords illegally entered the rental unit on October 24, 2022. The Tenant’s testimony is that he attended the rental unit to learn that his key no longer worked and that upon knocking on the door, the Landlords were inside his unit and had packed up some of his belongings. The Landlords state they thought the tenancy had ended however in the Tenant’s email communication of September 30, 2022, he stated that he would not be returning the keys.
21. With respect to the alleged altercation between the Landlord and the Tenant on October 24, 2022, a photograph of the Tenant’s leg appears to be minor and required no more than the application of band-aid. The Tenant acknowledged that he sought no medical assistance and provided no evidence of there being a resulting scar from this alleged altercation.

*Breach of privacy:*

22. The Tenant testified that the Landlords used their “sympathetic story” to engage a Provincial Member of Parliament who then reached out to others who then accused him of squatting. As stated at the hearing, I was not satisfied that the Landlords had significant involvement, if any, in the actions of others and the Board’s authority rests with Landlords and Tenants. As a result, this allegation was not considered.

*Section 82 Analysis:*

23. The Tenant seeks damages in the total amount of \$30,000.00 with respect to all of his section 82 issues.
24. Guideline 6 of the Board’s Interpretation Guidelines states that, in determining the amount of an abatement for the violation of a tenants rights, the Board will consider factors such as the landlord's intentions in doing the action complained of by the tenant, whether the

landlord was motivated by malice towards the tenant, the extent of the harm suffered as a result of the landlord's actions, whether the tenant contributed to or aggravated the situation, and the frequency or duration of the landlord's actions, including the number of occasions on which the conduct occurred. The Guideline suggests that the abatement may be expressed as a portion of the rent that would reflect the seriousness of the expected effects on a tenant.

25. In this case, the Tenant submits that as a result of the Landlord's behavior and conduct, he "sunk into a deep depression triggered by PTSD that was emotionally paralyzing until mid January". The Tenant provided no further evidence of a lasting or continued impact as a result of the Landlords' behavior and conduct nor was there any medication documentation provided to substantiate his claim. The Tenant stated that he did not seek medical assistance.
26. Based on the evidence and submissions before me, I am satisfied that the illegal entry was a "one off" occasion and that there is no indication that there was such a pattern of conduct on the part of the landlord. I find that the entry of the rental unit occurred in the context of the Landlords anticipated repossession of the rental unit, a rental unit for which a substantial amount of rent arrears were owed.
27. Given all of the above, and based on similar cases I am aware of, I am satisfied that an abatement in the amount of \$1,000.00 is reasonable. This amount will be deducted from the amount owing to the Landlord.
28. There is no last month's rent deposit.
29. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including 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 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:**
  - \$12,605.20 if the payment is made on or before March 31, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

  - \$14,155.20 if the payment is made on or before April 2, 2023. 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, 2023 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, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$12,208.08. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$50.96 per day for the use of the unit starting March 7, 2023 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 April 2, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 3, 2023 at 5.00% annually on the balance outstanding.
8. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
9. If the unit is not vacated on or before April 2, 2023, then starting April 3, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
10. 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 April 3, 2023.

**March 22, 2023**  
**Date Issued**

  
Heather Chapple  
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, 2023 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, 2023**

Rent Owing To March 31, 2023	\$13,419.20
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	- \$1,000.00
<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>\$12,605.20</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, 2023**

Rent Owing To April 30, 2023	\$14,969.20
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	- \$1,000.00
<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>\$14,155.20</b>

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

Rent Owing To Hearing Date	\$12,022.08
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	- \$0.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenant for an abatement	- \$1,000.00
<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>\$11,208.08</b>

Plus daily compensation owing for each day of occupation starting March 7, 2023	\$50.96 (per day)
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