



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

**Citation:** Lee v Nabigon, 2024 ONLTB 10679

**Date:** 2024-02-15

**File Number:** LTB-L-016828-23

**In the matter of:** 305 MARY ST W  
THUNDER BAY ON P7E4K9

**Between:** Damien Lee

**And**

Alecia Nabigon

I hereby certify this is a  
true copy of an Order dated  
**FEB 15, 2024**  
Landlord and Tenant Board

Landlord

Tenant

Damien Lee (the 'Landlord') applied for an order to terminate the tenancy and evict Alecia Nabigon (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes. (L1 Application)

Damien Lee (the 'Landlord') applied for an order to terminate the tenancy and evict Alecia Nabigon (the 'Tenant') because: the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant; and the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully or negligently caused damage to the premises.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

Damien Lee (the 'Landlord') also applied for an order requiring Alecia Nabigon (the 'Tenant') to pay the Landlord's reasonable out-of-pocket expenses that are the result of the Tenant's failure to pay utility costs they were required to pay under the terms of the tenancy agreement. (L2 Application)

This application was heard by videoconference on January 31, 2024.

Only the Landlord's Legal Representative, Crystal Francey and the Landlord, attended the hearing.

As of 9:56 a.m., 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:**

L1 Application

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. The Tenant was in possession of the rental unit on the date the application was filed.
3. The Tenant vacated the rental unit on May 21, 2023. Rent arrears are calculated up to the date the Tenant vacated the unit.
4. The lawful rent is \$1,850.00. It was due on the 1st day of each month.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to May 21, 2023 are \$8,677.22.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. There is no last month's rent deposit.

L2 Application – unpaid utilities

9. Given that the Tenant vacated the rental unit, the Landlord was no longer seeking termination of the tenancy and the only issue to be determined in this application is with respect to compensation for unpaid utilities.
10. The Landlord requested to amend their application to include additional damage and utility charges. The Landlord did not comply with Rule 15.1 by requesting the amendment in writing before the hearing and serving a copy of the amended application to the Tenant and filing with the LTB the amended application with a certificate of service. The Landlord asked for the amendment at the hearing, however, it would not be appropriate to grant it as the Tenant was not present and they were not put on notice of the change to the claim so therefore, this request is denied.
11. The Tenant was required to pay for gas and electricity under the terms of the tenancy agreement. Based on the uncontested evidence before me, I am satisfied that the Tenant failed to pay the Enbridge gas and hydro costs as claimed in the application.
12. The Landlord has incurred reasonable out of pocket expenses of \$981.25 as a result of the Tenant's failure to pay these utility costs.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenant is terminated as of May 21, 2023, the date the Tenant moved out of the rental unit.
2. The Tenant shall pay to the Landlord \$9,844.47. This amount includes rent arrears owing up to the date the Tenant moved out of the rental unit, the reasonable out-of-pocket expenses the Landlord incurred as a result of unpaid utility costs and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.

3. If the Tenant does not pay the Landlord the full amount owing on or before February 26, 2024, the Tenant will start to owe interest. This will be simple interest calculated from February 27, 2024 at 7.00% annually on the balance outstanding.

**February 15, 2024**  
**Date Issued**

*T. Hunt*  
\_\_\_\_\_  
Teresa Hunt  
Member, Landlord and Tenant Board

15 Grosvenor St, 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.

**Schedule 1  
SUMMARY OF CALCULATIONS**

**A. Amount the Tenant must pay as the tenancy is terminated**

Rent Owing To Move Out Date	\$8,677.22
Application Filing Fee	\$186.00
Unpaid utilities	\$981.25
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/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>\$9,844.47</b>