



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

Citation: Kirwin v Leblanc, 2024 ONLTB 15459

Date: 2024-03-04

File Number: LTB-L-101632-23

In the matter of: UPPER, 1229 BRACKENWOOD CRES
KINGSTON ON K7P2W4

Between: Michelle Marie Kirwin

And

Daniel Leblanc
Baliee Wilkinson

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

MAR 04 2024

Landlord and Tenant Board

Landlord

Tenant

Michelle Marie Kirwin (the 'Landlord') applied for an order to terminate the tenancy and evict Daniel Leblanc and Baliee Wilkinson (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on February 21, 2024.

The Landlord and the Landlord's Legal Representative, L. McCullough and the Tenants 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 \$2,575.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$84.66. This amount is calculated as follows: \$2,575.00 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 \$32,611.00.
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 \$2,575.00 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 \$84.30 is owing to the Tenant for the period from November 1, 2022 to February 21, 2024.

Relief from Eviction


10. The Tenant testified that they ran into financial difficulties because they were audited by Revenue Canada with respect to their Child Tax Credit. As a result, their CCB was cut off and has yet to be reinstated. The Tenant testified to employment issues adding to the inability to make rent payments. The Tenants live in the unit with their 5 children ranging in age from 2 years to 15 years old.
11. The Tenants are seeking a delayed standard order and requested 3 months to vacate.
12. The Landlord is requesting a standard order. The Landlord's representative submits that there has been no payment to the Landlord for a considerable amount of time and the arrears are almost at the Board's monetary jurisdiction. The Representative submits that a delayed termination is highly prejudicial to the Landlord considering the amount of rent currently outstanding.
13. 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 not be unfair to postpone the eviction until March 31, 2024 pursuant to subsection 83(1)(b) of the Act. I find that a short delay is warranted in the circumstances based on the testimony of the Tenant with respect to children living in the unit. Any further delay would be prejudicial to the Landlord given the substantial quantum of arrears.

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:**
 - \$35,372.00* if the payment is made on or before March 31, 2024. See Schedule 1 for the calculation of the amount owing. This amount exceeds the monetary jurisdiction of the Board. This is an amount that the Tenant can choose to pay if they choose not to vacate the rental unit. The Board is not ordering this amount to be paid. This amount is optional and only required if the Tenant elects to remain in the rental unit. Therefore, the Board is not ordering this amount to be paid and is not ordering an amount that exceeds the limit.
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 31, 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 31, 2024**

5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$29,340.56. 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 \$84.66 per day for the use of the unit starting February 22, 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 31, 2024, then starting April 1, 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 April 1, 2024.

March 4, 2024
Date Issued



Emily Robb
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 1, 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 | \$35,186.00 |
| 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 the Tenant paid into the LTB since the application was filed | - \$0.00 |
| Less the amount the Landlord owes the Tenant for an {abatement/rebate} | - \$0.00 |
| Less the amount of the credit that the Tenant is entitled to | - \$0.00 |
| Total the Tenant must pay to continue the tenancy | \$35,372.00* |

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

| | |
|--|----------------------|
| Rent Owing To Hearing Date | \$31,813.86 |
| 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 the Tenant paid into the LTB since the application was filed | - \$0.00 |
| Less the amount of the last month's rent deposit | - \$2,575.00 |
| Less the amount of the interest on the last month's rent deposit | - \$84.30 |
| Less the amount the Landlord owes the Tenant for an {abatement/rebate} | - \$0.00 |
| Less the amount of the credit that the Tenant is entitled to | - \$0.00 |
| Total amount owing to the Landlord | \$29,340.56 |
| Plus daily compensation owing for each day of occupation starting February 22, 2024 | \$84.66 (per day) |

