



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

Citation: ASOBE ASSETS CORP v Leblanc, 2024 ONLTB 5094

Date: 2024-01-26

File Number: LTB-L-067089-22

In the matter of: Suite 3, 104 Jobin Ave
CORNWALL ON K6J3L1

Between: ASOBE ASSETS CORP Landlord

And

Marielle Leblanc Tenant

ASOBE ASSETS CORP (the 'Landlord') applied for an order to terminate the tenancy and evict Marielle Leblanc (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 9, 2024.

The Landlord's agent, Kofi Obeng, the Landlord's legal representative, Lorrie McCullough, the Tenant, the Tenant's legal representative, Amber Miller, and Jason Larose, an occupant of the rental unit, attended the hearing.

Preliminary Issues:

1. At the hearing, the Tenant wished to raise issues under section 82 of the *Residential Tenancies Act, 2006* (the 'Act').
2. The Landlord objected to the Tenant's raising of the issues under section 82, as the Tenant failed to comply with the disclosure requirements under the Act and the Board's Rules of Procedure.
3. This application first came before the Board on August 3, 2023, and was adjourned because the Tenant was unaware of the hearing and also because the Tenant wished to raise issues under section 82 of the Act.
4. The hearing of the application returned on January 9, 2024.
5. The Tenant's legal representative provided disclosure of the issues and supporting evidence to the Landlord's legal representative at 11:00 p.m. on January 4, 2024, effectively providing the disclosure on January 5, 2024, which was a Friday morning. The hearing of the application was at 9:00 a.m. on Tuesday, January 9, 2024. The Landlord essentially had 4 days, two of which included the weekend to prepare a response.
6. The Landlord submitted that proceeding with the Tenant's section 82 issues would be prejudicial to the Landlord, as the Landlord did not have sufficient time to prepare a response to the Tenant's allegations. The Tenant had five months from the date of the last hearing to set out the issues and disclose the evidence the Tenant wished to rely on.

7. The Tenant's legal representative submitted that the delay was caused by staffing issues at the legal clinic and also due to some technical difficulties at the last moment.
8. Pursuant to section 82 (1) of the Act, at a hearing of an application by a landlord under section 69 for an order terminating a tenancy and evicting a tenant based on a notice of termination under section 59, the Board shall permit the tenant to raise any issue that could be the subject of an application made by the tenant under this Act if the tenant,
 - (a) complies with the requirements set out in subsection (2); or
 - (b) provides an explanation satisfactory to the Board explaining why the tenant could not comply with the requirements set out in subsection (2).
9. Section 82 (2) states that :
 1. The tenant shall give advance notice to the landlord of the tenant's intent to raise the issue at the hearing.
 2. The notice shall be given within the time set out in the Rules.
 3. The notice shall be given in writing and shall comply with the Rules.
10. Rule 19 of the Board's Rules of Procedure states that unless the LTB has directed or ordered otherwise, all parties to a matter that has been scheduled must provide the other parties and the LTB with a copy of all documents, pictures and other evidence that the party intends to rely upon at least 7 days before the hearing.
11. Rule 19.4 states that a tenant who intends to raise issues under sections 82(1) or 87(2) of the RTA during a hearing for a landlord's application about rent arrears shall provide the other parties and the LTB with the following at least 7 days before the scheduled hearing:
 - a written description of each issue the tenant intends to raise; and
 - a copy of all documents, pictures and other evidence that the tenant intends to rely upon at the hearing.
12. Pursuant to Rule 19.5, a tenant who fails to provide the LTB and other parties with a written description of each issue they intend to raise at the hearing as required in Rule 19.4 shall not be permitted to raise issues under sections 82(1) or 87(2) of the RTA during a hearing for a landlord's application about rent arrears unless the LTB is satisfied that the tenant could not comply with the requirements.
13. Pursuant to Rule 19.7, a party who fails to comply with Rule 19 may not rely on the evidence that was not disclosed as directed or ordered, unless otherwise ordered.
14. I am not satisfied that the Tenant provided a reasonable explanation for the failure to comply with the disclosure rules. The Tenant had ample time to provide the evidence to the Landlord in accordance with Rules.

15. The Board record indicates that the Notices of Hearing were emailed to the parties on October 4, 2023, that is 3 months before the hearing. The first hearing was on August 3, 2023.
16. As such, I find that the Tenant had ample opportunity to provide disclosure pursuant to the Rules, and she did not.
17. As the Tenant failed to comply with the disclosure requirements under the Act and the Rules, the Board did not consider any issues the Tenant wished out raise under section 82 of the Act.

Determinations:

18. 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.
19. The Tenant was in possession of the rental unit on the date the application was filed.
20. The Tenant vacated the rental unit as of August 1, 2023. Rent arrears are calculated up to the date before the Tenant vacated the unit, that is July 31, 2023 .
21. The lawful rent is \$1,300.00. It was due on the 1st day of each month.
22. The Tenant has not made any payments since the application was filed.
23. The rent arrears owing to July 31, 2023 are \$13,000.00.
24. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
25. The Landlord collected a rent deposit of \$1,300.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit is applied to the arrears of rent because the tenancy terminated.
26. Interest on the rent deposit, in the amount of \$39.27 is owing to the Tenant for the period from May 17, 2022 to July 31, 2023.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of July 31, 2023, the date the Tenant moved out of the rental unit.
2. The Tenant shall pay to the Landlord \$11,023.40. This amount includes rent arrears owing up to the date the Tenant moved out of the rental unit and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit is deducted from the amount owing by the Tenant. 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 March 30, 2024, the Tenant will start to owe interest. This will be simple interest calculated from March 31, 2024 at 7.00% annually on the balance outstanding.



March 15, 2024
Date Issued

Jana Rozehnal
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	\$13,000.00
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 of the last month's rent deposit	- \$1,300.00
Less the amount of the interest on the last month's rent deposit	- \$39.27
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	\$11,846.73