



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

**Citation:** Oleksiuk v King, 2024 ONLTB 13265

**Date:** 2024-02-22

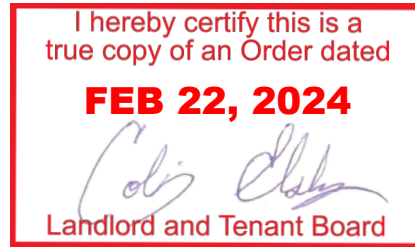
**File Number:** LTB-L-064018-23

**In the matter of:** 8 CUTHBERT ST  
BARRIE ON L4N6X7

**Between:** Svitlana Oleksiuk  
Dmytro Povolotskyy

**And**

Sherrylyn Grace King  
Garvin Phillip



Landlord

Tenant

Svitlana Oleksiuk and Dmytro Povolotskyy (collectively referred to as the 'Landlord') applied for an order to terminate the tenancy and evict Sherrylyn Grace King and Garvin Phillip (collectively referred to as the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 10, 2024.

The Landlord, Svitlana Oleksiuk, and their representative, Elina Vasilieva, and the Tenant, Sherrylyn Grace King, 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 \$2,900.00. It is due on the 11th day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$95.34. This amount is calculated as follows: \$2,900.00 x 12, divided by 365 days.
5. The Tenant has paid \$9,200.00 to the Landlord since the application was filed.
6. The rent arrears owing to January 10, 2024 are \$8,200.00.
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 \$2,900.00 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 \$12.91 is owing to the Tenant for the period from November 7, 2023 to January 10, 2024.
10. The Tenant did not dispute the arrears owing but wish to preserve the tenancy. The Tenant proposed a payment plan of \$300.00 a month to pay back the arrears until May 2024 and then after this, 800.00 towards the arrears. This would roughly be a 12-month payment plan.
11. So, the question is would it be unfair in all of the circumstances to grant the Tenant the relief sought.
12. The problem with the Tenant's request for relief is that their own evidence indicates they cannot afford the rental unit unless she reduces her expenses. So, the evidence supports the conclusion that if the Board puts in place the repayment plan they request, the Tenant will not be able to comply with it and the Landlord will be facing additional financial difficulties and legal proceedings and that would be unfair to the Landlord.
13. Based on the above, 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.

**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:**
  - \$14,186.00 if the payment is made on or before March 4, 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 4, 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 4, 2024**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$5,473.09. 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 \$95.34 per day for the use of the unit starting January 11, 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 4, 2024, the Tenant will start to owe interest. This will be simple interest calculated from March 5, 2024 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before March 4, 2024, then starting March 5, 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 5, 2024.



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Colin Elsby  
Member, Landlord and Tenant Board

**February 22, 2024**  
**Date Issued**

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 5, 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 4, 2024**

Rent Owing To March 10, 2024	\$23,200.00
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	- \$9,200.00
<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>\$14,186.00</b>

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

Rent Owing To Hearing Date	\$17,400.00
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	- \$9,200.00
<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	- \$2,900.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$12.91
<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>\$5,473.09</b>
Plus daily compensation owing for each day of occupation starting January 11, 2024	\$95.34 (per day)

