



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

Citation: Dover v Caissie, 2023 ONLTB 75544

Date: 2023-11-21

File Number: LTB-L-010344-23

In the matter of: 1490 BUCKSLIDE RD
ALGONQUIN HIGHLANDS ON K0M1J1

Between: Dover and Alexis Marcella

And

Edward Caissie

I hereby certify this is a
true copy of an Order dated
November 21, 2023
Ajitinder Arora
Landlord and Tenant Board

Landlord

Tenant

Dover and Alexis Marcella (the 'Landlord') applied for an order to terminate the tenancy and evict Edward Caissie (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on July 4, 2023. The second named Landlord attended the hearing.

As of 2:49pm, 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:

1. The Landlord served the Tenant with a Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The rent charged on the N4 Notice states \$700.00 per month. However, under the details of the Landlord's claim section of the L1 Application, it states that the rent charged is \$800.00 per month.
2. The Landlord testified that the current monthly rent is \$800.00 as per the L1 Application and she made a mistake on the N4 Notice by filling it in as \$700.00 per month.
3. The Landlord testified that the reason why she put the rent as \$700.00 per month on the N4 Notice was because she did not include the \$100.00 payment for heat and hydro. I advised the Landlord that I may determine that this N4 Notice is defective and dismiss the application.
4. *Interpretation Guideline 10 of the Board* states "the Board will not terminate a tenancy and order eviction of the tenant unless the tenant has received a valid Notice of Termination from the landlord and the landlord has successfully proved the ground claimed in the Notice at the hearing of the application."
5. I gave the Landlord two options: she can either withdraw the Application and serve a valid N4 Notice or she can continue with the Application for rental arrears only and no eviction order.

6. The Landlord testified that she is willing to change the rent to \$700.00 per month if she could still pursue an eviction order. The Landlord testified that she was struggling to pay the mortgage and the bank was close to foreclosing on the rental property.
7. I gave the Landlord a third option. I advised the Landlord that if she wanted to repair the current deficiency on the N4 Notice by changing the rent to \$700.00 per month, she would have to change it to this amount from the first month in arrears listed on the N4 Notice and to be applied to every rental month thereafter.
8. I find that it is not prejudicial to the Tenant to change the rent to \$700.00 per month as it decreases the rental arrears owed and current monthly rent moving forward.
9. The Landlord testified that she is agreeable to changing the rent to \$700.00 per month for all months in arrears and making it this amount for the current rent moving forward. As a result, the figure of \$700.00 per month is used in calculating the rental arrears owed by the Tenant to the Landlord.
10. As of the hearing date, the Tenant was still in possession of the rental unit.
11. The lawful rent is \$700.00. It is due on the 1st day of each month.
12. Based on the Monthly rent, the daily rent/compensation is \$23.01. This amount is calculated as follows: \$700.00 x 12, divided by 365 days.
13. The Tenant has paid \$1,600.00 to the Landlord since the application was filed.
14. The rent arrears owing to July 31, 2023 are \$3,500.00.
15. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
16. The Landlord collected a rent deposit of \$800.00 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.
17. As noted, the Tenant did not attend the hearing of this matter and thus I did not have the opportunity to hear their evidence regarding their circumstances or to dispute the Landlord's application for an eviction order.
18. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and 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:**

- \$6,286.00 if the payment is made on or before November 30, 2023. See Schedule 1 for the calculation of the amount owing.

OR

- \$6,986.00 if the payment is made on or before December 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 December 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 December 2, 2023**
 5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$2,078.04. 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 \$23.01 per day for the use of the unit starting July 5, 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 December 2, 2023, the Tenant will start to owe interest. This will be simple interest calculated from December 3, 2023 at 7.00% annually on the balance outstanding.
 8. If the unit is not vacated on or before December 2, 2023, then starting December 3, 2023, 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 December 3, 2023.

November 21, 2023
Date Issued



Ajay Grewal
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 June 3, 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 November 30, 2023

Rent Owing To November 30, 2023	\$7,700.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$1,600.00
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	\$6,286.00

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before December 2, 2023

Rent Owing To December 31, 2023	\$8,400.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$1,600.00
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	\$6,986.00

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

Rent Owing To Hearing Date	\$4,292.04
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$1,600.00
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	- \$800.00
Less the amount of the interest on the last month's rent deposit	- \$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 amount owing to the Landlord	\$2,078.04
Plus daily compensation owing for each day of occupation starting July 5, 2023	\$23.01 (per day)