



**Tribunals Ontario**  
Landlord and Tenant Board

**Tribunaux décisionnels Ontario**  
Commission de la location immobilière

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

**Citation:** Rakhraj v Murtaza, 2023 ONLTB 22068

**Date:** 2023-03-01


**File Number:** LTB-L-039376-22

**In the matter of:** Upper Level, 14 HINCHLEY WOOD GROVE  
BRAMPTON ON L6V3M3

**Between:** Simran Kaur Rakhraj

**And**

Ali Murtaza  
Nazma Murtaza

I hereby certify this is a  
true copy of an Order dated  
**MAR 1, 2023**  
  
Landlord and Tenant Board

Landlord

Tenants

Simran Kaur Rakhraj (the 'Landlord') applied for an order to terminate the tenancy and evict Ali Murtaza and Nazma Murtaza (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on February 15, 2023.

The Landlord Simran Kaur Rakhraj and the Landlord's Legal Representative Seema Passi and the Tenant Nazma Murtaza attended the hearing.

At the hearing, the Tenant, after speaking with Tenant Duty Council, requested an adjournment. The Tenant Ms. Murtaza stated that she only received notice of the hearing two days prior and needed time to obtain legal representation and collect evidence. I pointed out to the Tenant the Board's records show the Notice of Hearing was mailed to the Tenant on February 1, 2023. The Tenant repeated she had not received it until two days before the hearing but gave no information as to how often she checks her mail. I asked the Tenant if they had sought legal advice after receiving the N4 Notice in July of 2022 and they did not. The Tenant also admitted they had not paid the Landlord any monthly since July of 2022. The Landlord was opposed to the request citing the significant rent arrears and the financial stress they were experiencing as a result of them.

I did not find it reasonable that a Tenant, properly served with an N4 Notice of Termination and aware they were not paying the monthly rent, would simply wait for a Notice of Hearing to arrive before taking steps to acquire evidence or seek legal representation. The rent arrears alleged were significant and an adjournment of the hearing could have the amount of rent arrears close to the Board's monetary jurisdiction by the time the file returned before the Board. When I considered the prejudice to both parties, I denied the adjournment request at the hearing proceeded.

**Determinations:**

Order Page: 1 of 5

File Number: LTB-L-039376-22

1. At the hearing the Landlord and the Landlord's Legal Representative relied on oral submissions and referred to documents to support their application. The Tenant was also given an opportunity to provide submissions and evidence.
2. 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.
3. As of the hearing date, the Tenant was still in possession of the rental unit. The Tenant Ms. Murtaza stated the other Tenant Ali Murtaza no longer resides in the rental unit. The Landlord submitted they had received no request from Ali Murtaza to be removed from the tenancy agreement and the application proceeded as filed.
4. The lawful rent is \$2,300.00. It is due on the 1st day of each month.
5. Based on the Monthly rent, the daily rent/compensation is \$75.62. This amount is calculated as follows:  $\$2,300.00 \times 12$ , divided by 365 days.
6. The Tenant has not made any payments since the application was filed.
7. The rent arrears claimed by the Landlord to February 28, 2023 were \$20,700.00. At the hearing, Ms. Murtaza disagreed with this amount, stating that she had paid the monthly rent in June and July of 2022. I asked the Tenant which dates these payments were made and they provided no additional information. I asked how the payments were made and Ms. Murtaza stated they were made by etransfer. I asked the Tenant if they could provide a screen capture showing these payments and Ms. Murtaza stated she could not. I am not satisfied on a balance of probabilities the Tenant made these payments and as a result I find the outstanding rent arrears to February 28, 2023 are \$20,700.00
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlord collected a rent deposit of \$2,300.00 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.
10. Interest on the rent deposit, in the amount of \$63.68 is owing to the Tenant for the period from July 2, 2021 to February 15, 2023.
11. The Landlord sought eviction within 11 days of this order. They have had to acquire personal loans to pay the mortgage for the rental unit and are suffering financially as a result. I asked the Landlord if they had attempted to negotiate a payment plan with the Tenant to address the rent arrears and they stated they had but the Tenant advised them not to contact them.
12. I asked the Tenant about their circumstances and the Tenant explained she had lost her job and separated from her husband and this lead to the rent arrears. She has four children and dealing with health issues. The Tenant requested I postpone the eviction for 3 months.

Order Page: 2 of 5

4/4/2023, 11:30 AM

File Number: LTB-L-039376-22

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, 2023 pursuant to subsection 83(1)(b) of the Act. From the date of the hearing, this provides the Tenant approximately half the time she requested to find alternate living arrangements. This extra time should help the Tenant given she had four children and health issue. I find this a fair and reasonable balance between the competing interests of the Landlord and the Tenant.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants voids this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
  - \$23,186.00 if the payment is made on or before March 31, 2023. See Schedule 1 for the calculation of the amount owing.
3. The Tenants may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenants have paid the full amount owing as ordered plus any additional rent that became due after March 31, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.
4. **If the Tenants do not pay the amount required to void this order the Tenants must move out of the rental unit on or before March 31, 2023**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$17,356.62. 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 Tenants. See Schedule 1 for the calculation of the amount owing.
6. The Tenants shall also pay the Landlord compensation of \$75.62 per day for the use of the unit starting February 16, 2023 until the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before March 31, 2023, the Tenants will start to owe interest. This will be simple interest calculated from April 1, 2023 at 5.00% annually on the balance outstanding.
8. If the unit is not vacated on or before March 31, 2023, then starting April 1, 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 April 1, 2023.

**March 1, 2023**  
**Date Issued**

  
\_\_\_\_\_  
John Cashmore  
Member, Landlord and Tenant Board

Order Page: 3 of 5

4/4/2023, 11:30 AM

**File Number: LTB-L-039376-22**

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, 2023 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.

Order Page: 4 of 5

File Number: LTB-L-039376-22

**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, 2023**

|  |                    |
|--|--------------------|
| Rent Owing To March 31, 2023                             | \$23,000.00        |
| Application Filing Fee                                   | \$186.00           |
| <b>Total the Tenant must pay to continue the tenancy</b> | <b>\$23,186.00</b> |

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

|   |                      |
|---|----------------------|
| Rent Owing To Hearing Date  | \$19,534.30          |
| Application Filing Fee  | \$186.00             |
| Less the amount of the last month's rent deposit                                    | - \$2,300.00         |
| Less the amount of the interest on the last month's rent deposit                    | - \$63.68            |
| <b>Total amount owing to the Landlord</b>   | <b>\$17,356.62</b>   |
| Plus daily compensation owing for each day of occupation starting February 16, 2023 | \$75.62<br>(per day) |

Order Page: 5 of 5