



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

**Citation:** Fernandez v Houweling, 2023 ONLTB 65644

**Date:** 2023-10-05

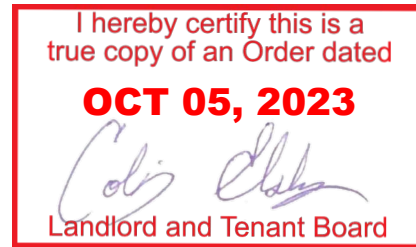
**File Number:** LTB-L-072842-22

**In the matter of:** 1, 104 HARVEY ST  
CHATHAM ON N7M1M3

**Between:** Abhay Fernandez

**And**

Jessyka Houweling



Landlord

Tenant

Abhay Fernandez (the 'Landlord') applied for an order to terminate the tenancy and evict Jessyka Houweling (the 'Tenant') because:

- the Tenant has been persistently late in paying the Tenant's rent.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on August 24, 2023.

Only the Landlord attended the hearing.

As of 10:02 AM, 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:**

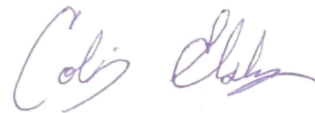
1. On November 28, 2022, the Landlord gave the Tenant an N8 notice of termination (N8) with a termination date of January 1, 2023. The N8 seeks termination of the tenancy on the ground that the Tenant has persistently failed to pay the rent on the date it was due.
2. The N8 stated that between January 2022 and November 2022, the Tenant was late in paying their rent 7 times.
3. The Tenant was in possession of the rental unit on the date the application was filed.
4. The monthly rent is \$1,290.30 and is due on the first day of the month.
5. The Tenant was required to pay the Landlord \$8,696.27 in daily compensation for use and occupation of the rental unit for the period from February 1, 2023 to August 24, 2023.

6. Based on the Monthly rent, the daily compensation is \$42.42. This amount is calculated as follows:  $\$1,290.30 \times 12$ , divided by 365 days.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. There is no last month's rent deposit.
9. The Landlord submitted a ledger showing that the Tenant has persistently failed to pay the rent on the date it was due. After the N8 was served, the Tenant continued to pay their rent late.
10. Based on the uncontested evidence before me, I find the Tenant has persistently failed to pay their rent on the day that it was due and payable.
11. 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. The Tenant must move out of the rental unit on or before October 16, 2023.
2. If the unit is not vacated on or before October 16, 2023, then starting October 17, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. 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 October 17, 2023.
4. The Tenant shall pay to the Landlord \$8,696.27, which represents compensation for the use of the unit from February 1, 2023 to August 24, 2023.
5. The Tenant shall also pay the Landlord compensation of \$42.42 per day for the use of the unit starting August 25, 2023 until the date the Tenant moves out of the unit.
6. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
7. The total amount the Tenant owes the Landlord is \$8,882.27.
8. If the Tenant does not pay the Landlord the full amount owing on or before October 16, 2023, the Tenant will start to owe interest. This will be simple interest calculated from October 17, 2023 at 7.00% annually on the balance outstanding.

**October 5, 2023**  
**Date Issued**



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Colin Elsby  
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 of the Tenant expires on April 17, 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.