



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

**File Number:** NOL-41419-20

**In the matter of:** 1397 OLIVER ROAD  
THUNDER BAY ON P7G1K4

**Between:** Lormar Construction Landlord

**and**

Adam Smelt Tenant

Lormar Construction (the 'Landlord') applied for an order to terminate the tenancy and evict Adam Smelt (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by video conference on June 17, 2021 beginning at 9:00 a.m.

The Landlord, Mario Michieli, the Landlord's Legal Representative, Rene Lawson, the Tenant and TDC Allister McGillivray (Thunder Bay), attended the hearing. TDC McGillivray was assisting the Tenant during the hearing.

**Determinations:**

1. The Tenant has not paid the total rent the Tenant was required to pay for the period from January 1, 2020 to June 30, 2021. Because of the arrears, the Landlord served a Notice of Termination effective November 18, 2020.
2. The Tenant is in possession of the rental unit.
3. The lawful monthly rent is \$2,300.00.
4. The Tenant has not paid any rent since the application was filed.
5. The arrears of rent owing for the period ending June 30, 2021 total \$41,400.00. This amount is above the Board's monetary jurisdiction of **\$35,000.00** as per subsection 207(1) of the *Residential Tenancies Act, 2006* (the 'Act'). The Landlord agreed to using **\$35,000.00** as the maximum number for any arrears owing in order to keep this matter within the Board's jurisdiction.
6. The Landlord incurred costs of \$186.00 for filing the application and are entitled to reimbursement of those costs.

7. The Landlord is not holding a rent deposit.
8. The Landlord testified that he had reached out to the Tenant many times since the application was filed in order to resolve the matter of the outstanding rent. The Landlord added that he had offered to help the Tenant with the arrears including payment plan options. Unfortunately, the Tenant only offered excuses and no rent money. As a result, the Landlord's Legal Representative requested a standard order from the Board.
9. The Landlord further added that due to the significant amount of arrears, he is in severe financial distress and may lose the property due to the Tenant not paying any rent in over 18 months.
10. TDC McGillivray requested an adjournment so the Tenant could apply for SSRF funding to help pay the arrears owing. The adjournment request was denied as it would be prejudicial to the Landlord to wait any longer considering the amount of arrears owing.
11. The Tenant testified that he let the rental arrears debt get way out of control and did not let his wife know that he had not been paying the rent. The Tenant added that he is currently not working and cannot afford any repayment plan at this time.
12. Therefore, having 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.
13. This order contains all of the reasons in this matter and no further reasons will be issued.

**It is ordered that:**

1. Unless the Tenant voids the order as set out below, the tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before July 5, 2021.
2. The Tenant shall pay to the Landlord **\$40,846.26\***, which represents the amount of rent owing and compensation up to June 24, 2021.
3. The Tenant shall also pay to the Landlord **\$75.62** per day for compensation for the use of the unit starting June 25, 2021 to the date the Tenant moves out of the unit.
4. The total amount owing from paragraph 2 and paragraph 3 cannot exceed **\$35,000.00** as per subsection 207(1) of the Act.
5. The Tenant shall also pay to the Landlord **\$186.00** for the cost of filing the application.
6. If the Tenant does not pay the Landlord the full amount owing\* on or before July 5, 2021, the Tenant will start to owe interest. This will be simple interest calculated from July 6, 2021 at 2.00% annually on the balance outstanding.

7. If the unit is not vacated on or before July 5, 2021, then starting July 6, 2021, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
8. 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 July 6, 2021.
9. If the Tenant wishes to void this order and continue the tenancy, the Tenant must pay to the Landlord or to the Board in trust:
  - i) **\$35,000.00 (instead of the \$41,586.00\*\* owing)** if the payment is made on or before June 30, 2021, or
  - ii) **\$35,000.00 (instead of the \$43,886.00\*\* owing)** if the payment is made on or before July 5, 2021\*\*.

If the Tenant does not make full payment in accordance with this paragraph and by the appropriate deadline, then the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
10. The Tenant may make a motion to the Board under subsection 74(11) of the Act to set aside this order if the Tenant pays the amount required under that subsection on or after July 6, 2021 but before the Sheriff gives vacant possession to the Landlord. The Tenant is only entitled to make this motion once during the period of the tenancy agreement with the Landlord.

2021 CanLII 95715 (ON LTB)

**June 24, 2021**  
**Date Issued**

*Michael Di Salle*  
Michael Di Salle  
Member, Landlord and Tenant Board

Northern-RO  
199 Larch Street, Provincial Building, Suite 301  
Sudbury ON P3E5P9

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 January 6, 2022 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.

\* Refer to section A on the attached Summary of Calculations.

\*\* Refer to section B on the attached Summary of Calculations.

**Schedule 1  
SUMMARY OF CALCULATIONS**

**File Number: NOL-41419-20**

**A. Amount the Tenant must pay if the tenancy is terminated:**

<b>Reasons for amount owing</b>	<b>Period</b>	<b>Amount</b>
Arrears: (up to the termination date in the Notice of Termination)	January 1, 2020 to November 18, 2020	\$24,361.10
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	November 19, 2020 to June 24, 2021	\$16,485.16
Amount owing to the Landlord on the order date: (total of previous boxes)		<b>\$40,846.26</b>
Additional costs the Tenant must pay to the Landlord:		\$186.00
Plus daily compensation owing for each day of occupation starting June 25, 2021:		\$75.62 (per day)
<b>Total the Tenant must pay the Landlord if the tenancy is terminated:</b>		<b>\$41,032.26, + \$75.62 per day starting June 25, 2021</b>

**B. Amount the Tenant must pay to void the eviction order and continue the tenancy:**

**1. If the payment is made on or before June 30, 2021:**

<b>Reasons for amount owing</b>	<b>Period</b>	<b>Amount</b>
Arrears:	January 1, 2020 to June 30, 2021	\$41,400.00
Additional costs the Tenant must pay to the Landlord:		\$186.00
<b>Total the Tenant must pay to continue the tenancy:</b>	On or before June 30, 2021	<b>\$41,586.00</b>

**2. If the payment is made after June 30, 2021 but on or before July 5, 2021:**

<b>Reasons for amount owing</b>	<b>Period</b>	<b>Amount</b>
Arrears:	January 1, 2020 to July 31, 2021	\$43,700.00
Additional costs the Tenant must pay to the Landlord:		\$186.00
<b>Total the Tenant must pay to continue the tenancy:</b>	On or before July 5, 2021	<b>\$43,886.00</b>