



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** 1000022565 Ontario Inc. v Tremblay, 2024 ONLTB 15137

**Date:** 2024-03-01

**File Number:** LTB-L-076599-23

**In the matter of:** Trailer 3B-778 Kingston Road West  
Ajax, ON L1T 3A1

**Between:** 1000022565 Ontario Inc.

**And**

Julie Tremblay

I hereby certify this is a  
true copy of an Order dated

**MAR 1 2024**

Landlord and Tenant Board

Landlord

Tenant

1000022565 Ontario Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Julie Tremblay (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 24, 2024.

The Landlord's Legal Representative Denise Sheila Ranger, the Landlord's agent Ashish Patel and the Tenant's agent Robert Marier attended the hearing.

### Determinations:

#### *Preliminary Issue – Does the Act apply?*

1. The Tenant's agent raised a preliminary issue at the start of the hearing, submitting that the *Residential Tenancies Act, 2006* (the 'Act') does not apply because the agreement between the Landlord and the Tenant was an employment contract and that no formal lease agreement was signed.
2. The Tenant's agent argued that the Landlord alleges that the Tenant breached the employment contract by not paying rent, and that this dispute can only be resolved in a court. The Tenant's agent alleges that the Tenant was wrongfully terminated by the Landlord.
3. The agreement, which was entered into evidence as an exhibit, outlined the contract between the Tenant and the Landlord as such;

*Moodies will provide accommodation to Julie (and her family) in the form of the agreed upon trailer room at **no cost** for the period she works as housekeeping (sic) at Moodie's Motor Inn. Should this arrangement be terminated by either party the rent for the unit will be \$500.00 + HST/week for up to a 3-month period. All utilities will be included in the unit at no cost. This agreement is not enforceable under the LTB act (sic) as no formal lease agreement is being signed or agreed upon, residence is conditional upon the work contract and not mutually exclusive.*

4. A second lease was also entered into evidence which contained similar provisions as outlined above and is signed by the Tenant, but not the Landlord.
5. The Landlord's Legal Representative argued that the arrangement between the parties is a tenancy and relied upon ss. 3 and 202 of the Act.
6. Section 3 of the Act states that the Act applies with respect to rental units in residential complexes, despite any other Act and despite any agreement to the contrary.
7. Section 202 of the Act states that in making findings in an application, the Board shall ascertain the real substance of all transactions and activities relating to a rental unit and the good faith of the participants and in doing so may disregard the outward form of a transaction and may have regard to the pattern and activities relating to the rental unit.
8. The Tenant's agent, who also resides in the unit, testified that the intention of the parties when the contract was entered into was to ensure the Tenant and her family had somewhere to live during her employment with the Landlord.
9. Also entered into evidence was a letter sent to the Tenant from the Landlord's agent dated July 31, 2023 terminating the Tenant's employment as of September 1, 2023. The letter goes on to offer the Tenant to either remain in the rental unit and pay rent or to vacate by September 1, 2023.
10. On a balance of probabilities, I am satisfied that the Act applies with respect to this contract.
11. I find the contract between the parties to be clear that in the instance where the Tenant's employment with the Landlord ended, the Tenant was given options by the Landlord including the ability to remain in the rental unit at the agreed upon rent amount.
12. The employment contract had been terminated as of September 1, 2023, leading the agreement to a fixed-term tenancy for three months. That period ended as of November 30, 2023 and I now find that the tenancy is a week-to-week tenancy as contemplated under s. 38(2) of the Act.
13. While tenants are normally afforded the ability to raise their own issues in accordance with s. 82 of the Act, what I find the Tenant's agent was trying to do in this scenario was to collaterally attack the loss of his wife's employment through the Board. This is not permitted as the Tenant has a straight-line process to follow with respect to this claim and must be pursued in another venue.

#### *Landlord's Evidence*

14. 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.
15. As of the hearing date, the Tenant was still in possession of the rental unit.
16. The lawful rent is \$500.00. It is due on the 1st day of each week.

17. Based on the Weekly rent, the daily rent/compensation is \$71.23. This amount is calculated as follows: \$500.00 x 52, divided by 365 days.
18. The Tenant has not made any payments since the application was filed.
19. The rent arrears owing to February 15, 2024 are \$12,000.00.
20. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
21. There is no last month's rent deposit.

*Section 83 Considerations*

22. The Tenant's agent submitted that there would be no proposed payment plan and asked me to refuse eviction pursuant to s. 83(3)(c), as the Tenant had attempted to enforce her legal rights.
23. The Tenant's agent was unable to provide me any evidence of any sort of claim made by her within the context of her employment issues with the Landlord made contemporaneously at the time her employment was terminated and as outlined, the Tenant was not permitted to collaterally attack her dismissal through the Board.
24. As such, the Tenant's agent's request to refuse eviction is denied.
25. The Tenant's agent testified that if he and his wife are evicted that they will be in the street as they have been unable to find a new rental unit since May 5, 2023 and shelters are currently full.
26. The Landlord requested an immediate eviction based upon the actions of the Tenant and her husband and the fact that the Tenant knew she had to vacate since last summer.
27. Having considered the evidence of both parties and the date this order is being issued, the Tenants will have until March 31, 2024 to either void the order or to vacate the unit.
28. 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, 2024 pursuant to subsection 83(1)(b) 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:**
  - \$15,186.00 if the payment is made on or before March 28, 2024. See Schedule 1 for the calculation of the amount owing.

**OR**

  - \$15,686.00 if the payment is made on or before March 31, 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 31, 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 31, 2024.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$10,613.38. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$71.23 per day for the use of the unit starting January 25, 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 12, 2024, the Tenant will start to owe interest. This will be simple interest calculated from March 13, 2024 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before March 31, 2024, then starting April 1, 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 April 1, 2024.

**March 1, 2024**  
**Date Issued**

  
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Jagger Benham  
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 October 1, 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 28, 2024**

Rent Owing To March 28, 2024	\$15,000.00
Application Filing Fee	\$186.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$15,186.00</b>

**B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before March 31, 2024**

Rent Owing To April 4, 2024	\$15,500.00
Application Filing Fee	\$186.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$15,686.00</b>

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

Rent Owing To Hearing Date	\$10,427.38
Application Filing Fee	\$186.00
<b>Total amount owing to the Landlord</b>	<b>\$10,613.38</b>
Plus daily compensation owing for each day of occupation starting January 25, 2024	\$71.23 (per day)