



Order under Section 69
Residential Tenancies Act, 2006

File Number: SOL-21214-21

In the matter of: B-14, 28 KING STREET WEST
HAMILTON ON L8G 1H4

Between: The Effort Trust Company Landlord

and

David Hart Dyke Tenant

The Effort Trust Company (the 'Landlord') applied for an order to terminate the tenancy and evict David Hart Dyke (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference September 7, 2021. The Landlord's Legal Representative, Kimberly Holleran attended the hearing. As of 3:40 p.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the Board.

Determinations:


1. The Tenant has not paid the total rent the Tenant was required to pay for the period from February 1, 2021 to September 30, 2021. Because of the arrears, the Landlord served a Notice of Termination effective March 8, 2021.
2. The Tenant is in possession of the rental unit.
3. The lawful monthly rent is \$710.00.
4. The Landlord collected a rent deposit of \$647.00 from the Tenant and this deposit is still being held by the Landlord.
5. Interest on the rent deposit is owing to the Tenant for the period from May 1, 2000 to March 8, 2021.
6. As of the date of the hearing, the rent arrears owing to September 30, 2021 is \$833.00.
7. 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 October 26, 2021 pursuant to subsection 83(1)(b) of the Act. The payments made by the Tenant show a good faith effort to preserve the tenancy.

8. This order was originally to issue on October 5, 2021; for reasons unknown, that did not happen, therefore, the dates have been amended accordingly. Any payments made by the Tenant since the day of hearing shall be deducted from the amounts listed as owing below. Further, due to the delay in issuance, I consider this extra time to be equivalent to giving the Tenant time pursuant to section 83.

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 January 15, 2022.
2. The Tenant shall pay to the Landlord \$2,033.40*, which represents the amount of rent owing and compensation up to January 4, 2022, less the rent deposit and interest the Landlord owes on the rent deposit.
3. The Tenant shall also pay to the Landlord \$23.34 per day for compensation for the use of the unit starting January 5, 2022 to the date the Tenant moves out of the unit.
4. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
5. If the Tenant does not pay the Landlord the full amount owing* on or before January 15, 2022, the Tenant will start to owe interest. This will be simple interest calculated from January 16, 2022 at 2.00% annually on the balance outstanding.
6. If the unit is not vacated on or before January 15, 2022, then starting January 16, 2022, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
7. 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 January 16, 2022.
8. If, on or before January 15, 2022, the Tenant pays the amount of \$3,859.00** to the Landlord or to the Board in trust, this order for eviction will be void. This means that the tenancy would not be terminated, and the Tenant could remain in the unit. If this payment is not made in full and on time, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
9. The Tenant may make a motion to the Board under subsection 74(11) of the Act to set aside this order if they pay the amount required under that subsection on or after January 16, 2022 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.

January 4, 2022
Date Issued



Diane Wade
Member, Landlord and Tenant Board

Southern-RO
119 King Street West, 6th Floor
Hamilton ON L8P4Y7

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 July 16, 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**

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

Reasons for amount owing	Period	Amount
Arrears: (up to the termination date in the Notice of Termination)	February 1, 2021 to March 8, 2021	-\$3,950.26
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	March 9, 2021 to January 4, 2022	\$7,048.68
Less the rent deposit:		-\$647.00
Less the interest owing on the rent deposit:	May 1, 2000 to March 8, 2021	-\$418.02
Amount owing to the Landlord on the order date:(total of previous boxes)		\$2,033.40
Additional costs the Tenant must pay to the Landlord:		\$186.00
Plus daily compensation owing for each day of occupation starting January 5, 2022:		\$23.34 (per day)
Total the Tenant must pay the Landlord if the tenancy is terminated:		\$2,219.40, + \$23.34 per day starting January 5, 2022

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

Reasons for amount owing	Period	Amount
Arrears:	February 1, 2021 to January 31, 2022	\$3,673.00
Additional costs the Tenant must pay to the Landlord:		\$186.00
Total the Tenant must pay to continue the tenancy:	On or before January 15, 2022	\$3,859.00

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