



**Order under Section 21.2 of the
Statutory Powers Procedure Act
and the Residential Tenancies Act, 2006**

File Number: LTB-L-058900-22-RV

In the matter of: 17 MCCASKELL ST
BEAVERTON ON L0K1A0

Concerning: Thakshajinee Narenthiran

And

Jarrold Nathan Basinger
Jessica Doreen Levair Fitchett



Landlord

Tenant

REVIEW ORDER

Thakshajinee Narenthiran (the 'Landlord') applied for an order to terminate the tenancy and evict Jarrold Nathan Basinger and Jessica Doreen Levair Fitchett (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was originally heard by videoconference on May 5, 2023. The Landlord and the Landlord's Legal Representative, T. Sivapatham attended the hearing.

This application was resolved by order LTB-L-058900-22 issued on May 12, 2023.

On May 17, 2023, the Jessica Doreen Levair Fitchett requested a review of the order and that the order be stayed until the request to review the order is resolved.

On May 19, 2023 interim order LTB-L-058900-22-RV-IN was issued, staying the order issued on May 12, 2023.

This request was heard by video conference on June 14, 2023.

The Tenant, Jessica Doreen Levair Fitchett and the Landlord and the Landlord's Legal Representative, T. Sivapatham attended the hearing.

Determinations:

Request to Review

1. The Tenant alleges that she was not reasonably able to participate in the hearing held on May 5, 2023 as she could not get connected either by the zoom link or by calling into the hearing.
2. The Tenant testified that she attempted to sign into the hearing using the zoom video link around 9:10 a.m. She got a message on the screen that said that the host hadn't started the meeting. She then tried to call in to the hearing using the information on the notice of hearing, but that was also unsuccessful.
3. She emailed the Board at approximately 10:37 a.m. on May 5, 2023 to advise that she could not log onto the hearing. She emailed again to a different Board email address at approximately 10:45 a.m. advising the same. She did not receive a response from the Board until the following Monday informing her that if she missed the hearing, she would need to file a request to review.
4. The Landlord opposes the request to review. The Landlord's representative submits that the Tenant did not try to connect to the hearing until 9:10 a.m.
5. Based on the evidence before me, on a balance of probabilities, I find that the Tenant wasn't reasonably able to participate in the hearing held on May 5, 2023. The Tenant submitted screenshots of emails that she sent to the Board advising that she could not log onto the hearing. She testified that the reason that she didn't start attempting to log on until 9:10 a.m. was because she has seven children, and mornings tend to be difficult in terms of getting them organized. I am not convinced that had the Tenant attempted to log on earlier, that this problem wouldn't have existed for her, as it seemed to be a technical issue. The Tenant demonstrated an intention to participate, and would have, but for the technical issues she experienced that morning
6. The request to review is granted. As a result, order LTB-L-058900-22 issued on May 12, 2023 was cancelled, and a new hearing was held to consider the merits of the original application.

Merits of the Original Application

7. 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.
8. As of the hearing date, the Tenant was still in possession of the rental unit.
9. The lawful rent is \$2,200.00. It is due on the 1st day of each month.

10. Based on the Monthly rent, the daily rent/compensation is \$72.33. This amount is calculated as follows: \$2,200.00 x 12, divided by 365 days. The Tenant has paid \$500.00 to the Landlord since the application was filed.
11. The rent arrears owing to June 30, 2023 are \$23,700.00.
12. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
13. The Landlord collected a rent deposit of \$2,200.00 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.

Relief from eviction

14. The Tenant testified that she lives in the unit with her six children and has a seventh child that stays intermittently. In the summer of 2022, a domestic situation occurred between her, and her partner and he was removed from the unit. She testified that she assumed that he was paying the rent, as that was the agreement. Subsequently, she found out that he wasn't paying.
15. The Tenant requested a payment plan that would see the arrears paid off in approximately two years by paying \$1,000.00 on the 20th of the month until the arrears are paid in full. In the alternative, she requests 3 or 4 months to vacate the unit.
16. The Landlord is requesting a standard order. The representative submits that the arrears are substantial, and the Tenant has made no payments, except for \$500.00, since August 2022.
17. After going through the Tenant's income versus expenses, it is clear that she cannot afford the payment plan that she is suggesting, in fact after her outgoing expenses, not including her rent, it appears that she does not bring in enough income to afford the unit, let alone the extra arrears payment of \$1,000.00 monthly. In the circumstances, it would not be fair to grant a payment plan that the Tenant can not afford.
18. The Tenant requested 3 to 4 months to vacate the unit. I do not find that this delay is fair in the circumstances. Except for a \$500.00 payment made in April of this year, the Tenant has not made any payment since August of 2022. It is appropriate to delay the eviction until July 31, 2023, given that there are six children living in the unit with the Tenant. I am mindful of the Landlord's request for a standard order, however, the Tenant has a last month's rent on deposit that will go towards July, so the arrears will not accrue.
19. 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 July 31, 2023 pursuant to subsection 83(1)(b) of the Act.
20. The Tenants have previously made a motion to the LTB under subsection 74(11) of the RTA to set aside a previous order for arrears with respect to application TEL-20949-21

concerning this tenancy. That motion was granted by order TEL-20949-21-VO, issued September 21, 2022. Accordingly, the Tenants cannot make another motion to set aside this order (see subsection 74(12) of the RTA)

It is ordered that:

1. The request to review order LTB-L-058900-22 issued on May 12, 2023 is granted.
2. Order LTB-L-058900-22 issued on May 12, 2023 is cancelled and replaced by the following:
3. The tenancy between the Landlord and the Tenants is terminated.
4. The Tenants must move out of the unit on or before July 31, 2023.
5. Tenant shall pay to the Landlord \$20,472.22. 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 Tenant. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$72.33 per day for the use of the unit starting June 15, 2023 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 July 31, 2023, the Tenant will start to owe interest. This will be simple interest calculated from August 1, 2023 at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before July 31, 2023, then starting August 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 August 1, 2023.

June 23, 2023
Date Issued



Emily Robb
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 February 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 Amount the Tenant must pay as the tenancy is terminated

Rent Owing To Hearing Date	\$23,012.62
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$500.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$2,200.00
Less the amount of the interest on the last month's rent deposit	- \$26.40
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlord	\$20,472.22
Plus daily compensation owing for each day of occupation starting June 15, 2023	\$72.33 (per day)