



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** White v Maltais, 2024 ONLTB 5718

**Date:** 2024-01-19

**File Number:** LTB-L-054990-23

**In the matter of:** 1 (Downstairs), 1096 3RD AVE E  
OWEN SOUND ON N4K2L2

**Between:** Brendon White, Luis White and Maria Garcia Jimenez Landlords

**And**

Benoit Maltais Tenant

Brendon White, Luis White and Maria Garcia Jimenez (the 'Landlords') applied for an order to terminate the tenancy and evict Benoit Maltais (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 11, 2024.

Only the Landlords and the Landlords' Legal Representative, Joan Henderson, attended the hearing.

As of 10:12 a.m., 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 Landlords' evidence.

### Determinations:

1. The Landlords 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.
2. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$1,043.45. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$34.31. This amount is calculated as follows: \$1,043.45 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to January 31, 2024 are \$8,271.25.
7. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

8. The Landlords collected a rent deposit of \$1,000.00 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.
9. Interest on the rent deposit, in the amount of \$60.56 is owing to the Tenant for the period from February 2, 2021 to January 11, 2024.

Section 83 – Relief from Eviction

10. The Landlords' Legal Representative submitted that she had sent a letter to the Tenant regarding the upcoming hearing and the balance owing. This letter also provided the contact information for her office and advised the Tenant to contact her office in order to discuss a repayment plan. The Landlords' Legal Representative also submitted that she spoke with the Tenant after the letter was sent and the Tenant advised that he would not be vacating the unit and he would not be making any payments.
11. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and whether the Landlords attempted to negotiate a repayment agreement with the Tenant and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The Tenant did not attend the hearing to request relief from eviction.

**It is ordered that:**

1. The tenancy between the Landlords 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 Landlords or to the LTB in trust:**
  - \$8,457.25 if the payment is made on or before January 30, 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 January 30, 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 January 30, 2024**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$6,730.65. 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 Landlords owe 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 Landlords compensation of \$34.31 per day for the use of the unit starting January 12, 2024 until the date the Tenant moves out of the unit.

7. If the Tenant does not pay the Landlords the full amount owing on or before January 30, 2024, the Tenant will start to owe interest. This will be simple interest calculated from January 31, 2024 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before January 30, 2024, then starting January 31, 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 Landlords on or after January 31, 2024.

**January 19, 2024**  
**Date Issued**

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Jessica Lapkowski  
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 July 31, 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 January 30, 2024**

Rent Owing To January 31, 2024	\$8,271.25
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenant paid to the Landlords since the application was filed	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$8,457.25</b>

**B. Amount the Tenant must pay if the tenancy is terminated**

Rent Owing To Hearing Date	\$7,605.21
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenant paid into the Landlords since the application was filed	- \$0.00
<b>Less</b> the amount of the last month's rent deposit	- \$1,000.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$60.56
<b>Total amount owing to the Landlord</b>	<b>\$6,730.65</b>
Plus daily compensation owing for each day of occupation starting January 12, 2024	\$34.31 (per day)