



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

Citation: Ding v Hercules, 2024 ONLTB 21197

Date: 2024-07-24

File Number: LTB-L-073556-23

In the matter of: 82 MCCANN CRES
BRADFORD ON L3Z0M5

Between: Chen Ding
Yan Zou
Landlord

And

Ances Hercules Tenant Ervin Hercules

Chen Ding and Yan Zou (the 'Landlord') applied for an order to terminate the tenancy and evict Ances Hercules and Ervin Hercules (the 'Tenant') because:

- the Tenant has been persistently late in paying the Tenant's rent.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on March 14, 2024.

The Landlord's Representative Jiangning Guo and the Tenant attended the hearing.

When the capitalized word "Landlord" is used in this order, it refers to all persons or companies identified as a Landlord at the top of the order. When the capitalized word "Tenant" is used in this order, it refers to all persons identified as a Tenant at the top of the order.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the Landlord's application is granted subject to the conditions set out in this order.

2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On September 11, 2023, the Landlord gave the Tenant an N8 notice of termination by mail, deemed served on September 16, 2023. The notice of termination contains the following allegations:

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The Tenant has persistently failed to pay the rent on the date it was due. The rent is due on the 8th day of each month. The rent has been paid late 8 times in the past 11 months.

4. This is a month-to-month tenancy, and the monthly rent is \$3,215.40.
5. The Tenant agreed that the rent was paid late as set out in the Notice of Termination. It was also uncontested that since the service of the N8 Notice on the Tenant, the Tenant has continued to pay the rent late.
6. Based on the evidence before me, I am satisfied that the Tenant has persistently paid the rent late as established in the Notice of Termination.

Relief from Eviction

1. The Tenant does not dispute that the rent has been consistently late for the period alleged by the Landlord. The Tenant testified that this was the result of having to travel due to 2 deaths in the family. The Tenant further testified that both Tenants are now working fulltime to which would allow them to pay the rent on time going forward.
2. The Landlord's Representative opposed the Tenant's request for relief as the late payments from the Tenant has caused financial hardship to the Landlord. The Landlord is seeking a standard order terminating the tenancy, with an eviction date 11 days from the date of this order.
3. On the basis of the uncontested evidence before me, I find that the Tenant's employment has changed, and with both Tenants now working full-time, the Tenant testified that they are able to pay the rent on time as it falls due, and they understand the obligation to do so. The Tenant has testified to their commitment to ensure the rent is paid on time, and as a conditional order will minimize prejudice to the Landlord, I find it reasonable to grant relief from eviction by way of a conditional order.
4. 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 grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.

5. The Landlord did not present any evidence in support of their claim for compensation and therefore, the claim for compensation is denied.
6. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

It is ordered that:

1. The tenancy between the Landlord and the Tenant continues if the Tenant meets the conditions set out below.
2. The Tenant shall pay the monthly rent on or before the 8th day of each month beginning August 8, 2024, through to July 8, 2025.

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3. If the Tenant fails to comply with the conditions set out in paragraph 2 of this order, the Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenant. The Landlord must make the application within 30 days of a breach of a condition. This application is made to the LTB without notice to the Tenant.
4. The Tenant shall 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 August 31, 2024, the Tenant will start to owe interest. This will be simple interest calculated from September 1, 2024 at 7.00% annually on the balance outstanding.

July 24, 2024

Date Issued

Brenda Mercer

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.