



**Order under Section 69 / 88.1  
Residential Tenancies Act, 2006**

**Citation:** Ontario Aboriginal Housing Support Services Corporation v Achneepineskum, 2024 ONLTB 10095

**Date:** 2024-02-14

**File Number:** LTB-L-003825-23

2024 ONLTB 10095 (CanLII)

**In the matter of:** 146 Riverview Street  
LONGLAC ON P0T2A0

**Between:** Ontario Aboriginal Housing Support Services Corporation and Infinity Property Services an Agency of the Metis Nation of Ontario Landlords

**And**

Theresa Achneepineskum Tenant

Ontario Aboriginal Housing Support Services Corporation and Infinity Property Services an Agency of the Metis Nation of Ontario (the 'Landlords') applied for an order to terminate the tenancy and evict Theresa Achneepineskum (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

The Landlords also applied for an order to terminate the tenancy and evict the Tenant because:

- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlords or another tenant.

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

The 'Landlords also applied for an order requiring the Tenant to pay the Landlords' reasonable out-of-pocket expenses that are the result of the Tenant's conduct or that of another occupant of the rental unit or someone the Tenant permitted in the residential complex. This conduct substantially interfered with the Landlords' reasonable enjoyment of the residential complex or another lawful right, privilege or interest.

This application was heard by videoconference on January 23, 2024.

Only the Landlord, Laura Craft, and the Landlords' Legal Representative, Lyndsay Dubois, attended the hearing.

As of 9:59am, 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. On November 25, 2022, the Landlord gave the Tenant an N5 notice of termination deemed served on November 30, 2022. The N5 alleged that the Tenant or their occupant had broken a number of windows. However, it was also apparent from the Landlord's materials that at some point after the damage occurred, but before the voiding period had expired, the Landlord fixed the windows to avoid cold weather damage to the unit.
2. While I can appreciate that the Landlord may have had good reasons for fixing the windows when they did, it had the effect of rendering this first N5 non-voidable. That means it did not comply with section 64(2)-(3) of the Act, and it is therefore defective. I informed the Landlord that as a result of this defect, I was not prepared to entertain the eviction portion of the application.
3. Although no ruling on validity had yet been made, The Landlords' Legal Representative indicated that if the N5 were deemed invalid it was their intention to proceed with the damages portion of the L2. However, I raised that Section 88.1(4) does not permit a Landlords to recover costs that the Landlords may recover in an application under section 88.2 or 89 and invited submissions on this from the Landlords' Legal Representative.
4. After consideration the Landlords' Legal Representative indicated that they wished to withdraw the L2 portion of this application and proceed solely on the L1.
5. The Landlords also served the Tenant with a valid Notice to End Tenancy Early for Nonpayment 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.
6. As of the hearing date, the Tenant was still in possession of the rental unit.
7. The lawful rent is \$333.00. It is due on the 1st day of each month.
8. Based on the Monthly rent, the daily rent/compensation is \$10.95. This amount is calculated as follows: \$333.00 x 12, divided by 365 days.
9. The Tenant has paid \$5,286.00 to the Landlord since the application was filed.
10. The rent arrears owing to January 31, 2024 are \$12,570.00.
11. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
12. There is no last month's rent deposit.
13. 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 Landlord 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.

**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 or to the LTB in trust:**
  - \$13,089.00 if the payment is made on or before February 29, 2024. See Schedule 1 for the calculation of the amount owing.

**OR**

- \$13,422.00 if the payment is made on or before March 10, 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 10, 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 10, 2024**
  5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$12,674.85. 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 \$10.95 per day for the use of the unit starting January 24, 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 10, 2024, the Tenant will start to owe interest. This will be simple interest calculated from March 11, 2024 at 7.00% annually on the balance outstanding.
  8. If the unit is not vacated on or before March 10, 2024, then starting March 11, 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 March 11, 2024.

**February 28, 2024**

**Date Issued**

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Reid Jackson

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 September 11, 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 February 29, 2024**

Rent Owing To February 29, 2024	\$18,189.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$5,286.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$13,089.00</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 10, 2024**

Rent Owing To March 31, 2024	\$18,522.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$5,286.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$13,422.00</b>

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

Rent Owing To Hearing Date	\$17,774.85
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$5,286.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount of the last month's rent deposit	- \$0.00

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<b>Less</b> the amount of the interest on the last month's rent deposit	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total amount owing to the Landlord</b>	<b>\$12,674.85</b>
Plus daily compensation owing for each day of occupation starting January 24, 2024	\$10.95 (per day)