



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

Citation: ACCL Property Management v Metivier, 2024 ONLTB 11439

Date: 2024-02-14

File Number: LTB-L-067055-23

In the matter of: 601 COLBORNE ST E
WHITBY ON L1N1W8

Between: ACCL Property Management Landlord

And

Candice Metivier Tenant

ACCL Property Management (the 'Landlord') applied for an order to terminate the tenancy and evict Candice Metivier (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 31, 2024.

The Landlord's Legal Representative, Henry Onwuachu, and the Tenant attended the hearing.

Determinations:

1. 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.
2. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$2,600.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$85.48. This amount is calculated as follows: \$2,600.00 x 12, divided by 365 days.
5. The Tenant has paid \$6,200.00 to the Landlord since the application was filed.
6. The rent arrears owing to January 31, 2024 are \$9,700.00.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

8. The Landlord collected a rent deposit of \$2,600.00 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 \$107.56 is owing to the Tenant for the period from June 7, 2022 to January 31, 2024.

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Relief from eviction

10. The Landlord's position is the tenancy should be terminated. The Landlord is a retiree and relies on the Tenant's rental payments to pay the mortgage and other bills associated with the rental unit.
11. The Tenant requested relief from eviction. The Tenant has four children between the ages of 5 and 16. The Tenant does not have family in the country to rely on for support. The Tenant has applied for and has been verbally approved for funding from a community support program to pay for the entirety of the arrears. In the absence of documentary evidence, the Tenant proposed a payment plan to pay the arrears back to the Landlord.
12. The Tenant first proposed a payment plan of paying \$500.00 per month toward the arrears. The Tenant provided financial disclosure for the Board's consideration. After a review of her income versus her expenses, the Tenant agreed she could afford a larger amount monthly toward the arrears to accommodate a 12-month payment plan.
13. 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.
14. I am satisfied that, if the Tenant does not receive the funding she believes she will receive from the community program, the tenant will be able to pay back the arrears to the Landlord. I have granted the Tenant with a 12-month payment plan.

It is ordered that:

It is ordered on consent that:

1. The Tenant shall pay to the Landlord \$9,886.00 for arrears of rent up to January 31, 2024 and costs.
2. The Tenant shall pay to the Landlord the amount set out in paragraph 1 in accordance with the following schedule:

Date Payment Due	Amount of Payment
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March 20, 2024	\$825.00 (Arrears)
April 20, 2024	\$825.00 (Arrears)
May 20, 2024	\$825.00 (Arrears)
June 20, 2024	\$825.00 (Arrears)
July 20, 2024	\$825.00 (Arrears)
August 20, 2024	\$825.00 (Arrears)

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September 20, 2024	\$825.00 (Arrears)
October 20, 2024	\$825.00 (Arrears)
November 20, 2024	\$825.00 (Arrears)
December 20, 2024	\$825.00 (Arrears)
January 20, 2025	\$825.00 (Arrears)
February 20, 2025	\$811.00 (Arrears)

3. **The Tenant shall pay the rent for February 2024 on or before February 20, 2024 if she has not done so upon receipt of this order.**
4. The Tenant shall also pay to the Landlord new rent on time and in full as it comes due and owing for the period March 2024 to February 2025, or until the arrears are paid in full, whichever date is earliest.
5. If the Tenants fail to make any one of the payments in accordance with this order and by the dates required, then:
 - a) 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, and for the payment of any new arrears of rent and NSF charges not already ordered under paragraph 1 of this order. The Landlord must make the application within 30 days of a breach of a condition in this order.

- b) The balance owing under paragraph 1 of this order shall become payable on the day following the default. The monies owing shall bear interest at the post-judgment interest rate determined under subsection 207(7) of the Act.

Date Issued

Elena Jacob

February 14, 2024

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.