



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

**Citation:** Menorca v Corbett, 2024 ONLTB 12934

**Date:** 2024-02-20

**File Number:** LTB-L-026221-22

**In the matter of:** 2, 90 WELLINGTON ST W  
SAULT STE. MARIE ON P6A1H1

**Between:** Isaias Menorca c/o Northstar Landlord Property Management Inc.

### **And**

Samuel Corbett Tenants Brent Parsons

Isaias Menorca c/o Northstar Property Management Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Samuel Corbett and Brent Parsons (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on September 29, 2023 and January 19, 2024.

The Landlord, the Landlord's Agent, Greta Wilson, and the Tenant, Samuel Corbett, attended the hearing. The Tenant spoke to Tenant Duty Counsel prior to the hearing.

As of 9:30 a.m., the Tenant, Brent Parsons, 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 Landlord's evidence.

### **Determinations:**

#### Procedural History

1. At the hearing on September 29, 2023, the Tenant testified that the other Tenant, Brent Parsons, vacated the rental unit in January 2023. The Tenant testified it was his belief that he and the other Tenant has separate tenancy agreements and therefore he was only responsible for his portion of the monthly rent.

2. The Landlord's Agent submitted the tenancy agreement as evidence. The tenancy agreement shows that there is only one tenancy agreement between the Landlord and the Tenants.
3. The Tenant disputed that there is only one tenancy agreement but did not provide the Board with any documentary evidence to rebut the Landlord's submissions.
4. The Tenant also intended to raise maintenance issues at the hearing pursuant to s.82(1) of the *Residential Tenancies Act, 2006* (the 'Act'). The Tenant filed the required s.82 list and evidence with the Board prior to the hearing held on September 29, 2023.
5. The hearing of the Landlord's application was adjourned to provide the Tenant the opportunity to retain legal counsel and submit further disclosure. The Landlord also required more time to provide the Tenant with their disclosure.
6. Interim order LTB-L-026221-22 was issued on October 5, 2023. It was ordered that the Tenant and the Landlord shall provide their respective disclosure on or before October 15, 2023 and October 30, 2023. The Tenant was also ordered to pay the lawful monthly rent on the first day of each month until the Landlord's application was resolved.
7. On January 18, 2024, the Tenant filed additional disclosure with the Board. The Landlord's disclosure was filed with the Board and provided to the Tenant on October 12, 2023, October 13, 2023, and October 17, 2023,
8. At the hearing on January 19, 2024, the Landlord's Agent submitted that the Tenant failed to pay the lawful monthly rent on the first day of each month as ordered.
9. The Tenant did not dispute that he failed to provide his disclosure and failed to pay the lawful monthly rent in accordance with interim order LTB-L-026221-22.

#### The Tenant's Breach of the Interim Order

10. The Tenant does not have a rational or reasonable excuse for failing to comply with the Interim Order.
11. The Tenant says he did not comply with the interim order because his monthly income does not support paying \$1,150.00 a month. He stated he has been unsuccessful in finding another roommate but due to the state of the unit, he believes he should not be paying any more than what he is currently paying.
12. In his testimony, the Tenant further stated he could not retain legal counsel and it was not until the day before the hearing that his updated disclosure could be filed with the Board.
13. The reasons the Tenant provided for the breach is wholly illogical. The Tenant was made fully aware of the interim order at the prior hearing and what his responsibilities would be and the consequences that would follow should he fail to comply. Moreover, the Tenant was afforded over three months to prepare his disclosure and had more than sufficient time to consult with Duty Counsel or the local legal clinic.

14. Besides the general argument about maintenance issues in the unit and unfairness, the Tenant offered no other real submissions about what steps the Board should take in response to the Tenant's breach of the interim order.
15. The Tenant slandered the property management company in the hearing and his behaviour was at times quite aggressive and combative. He threatened the Landlord and stated he would only pay what he feels the unit is worth.
16. The Landlord's Agent submitted that the Tenant has not informed the Landlord properly with respect to maintenance issues and as of the hearing date, any issues reported to the Landlord by the property management company have been corrected. She further submitted the Tenant refuses to pay the lawful monthly rent and it is prejudicial to the Landlord for the tenancy to continue.
17. Based on the submissions of parties and the Tenant's conduct, I have exercised my discretion under s.195(4) of the Act and I am not considering the Tenant's evidence and submissions with respect to any s.82 claims but I have considered the circumstances of the Landlord and the Tenant pursuant to s.83 of the Act.

#### L1 Application

18. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Non-payment of Rent ('N4 Notice'). The Tenants 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.
19. As of the hearing date, the Tenant, Samuel Corbett, was still in possession of the rental unit.
20. The lawful rent is \$1,150.00. It is due on the 1st day of each month.
21. Based on the Monthly rent, the daily rent/compensation is \$37.81. This amount is calculated as follows: \$1,150.00 x 12, divided by 365 days.
22. The Tenants have paid \$15,520.00 to the Landlord since the application was filed.
23. The rent arrears owing to January 31, 2024 are \$8,630.00.
24. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
25. There is no last month's rent deposit.
26. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. I say this because the Tenant clearly stated he cannot and will not pay the full monthly rent. Moreover, the Tenant does not have the income to support the rent or income to pay anything towards the substantial arrears. The tenancy is no longer viable.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants void this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
  - \$9,966.00 if the payment is made on or before February 29, 2024. See Schedule 1 for the calculation of the amount owing.

**OR**

  - \$11,116.00 if the payment is made on or before March 2, 2024. See Schedule 1 for the calculation of the amount owing.
3. The Tenants 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 2, 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 Tenants do not pay the amount required to void this order the Tenants must move out of the rental unit on or before March 2, 2024**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$8,384.39. 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 Tenants shall also pay the Landlord compensation of \$37.81 per day for the use of the unit starting January 20, 2024 until the date the Tenant moves out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before March 2, 2024, the Tenant will start to owe interest. This will be simple interest calculated from March 3, 2024 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before March 2, 2024, then starting March 3, 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 3, 2024.

**February 20, 2024**

**Date I ssued**

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Susan Priest

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 3, 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 Tenants 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	\$25,300.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$15,520.00
<b>Less</b> the amount the Tenants paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenants for an{abatement/rebate}	- \$0.00
<b>Total the Tenants must pay to continue the tenancy</b>	<b>\$9,966.00</b>

**B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before March 2, 2024**

Rent Owing To March 31, 2024	\$26,450.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$15,520.00
<b>Less</b> the amount the Tenants paid into the LTB since the application was filed	- \$0.00
<b>Total the Tenants must pay to continue the tenancy</b>	<b>\$11,116.00</b>

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

Rent Owing To Hearing Date	\$23,718.39
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	- \$15,520.00

<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
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$0.00
<b>Total amount owing to the Landlord</b>	<b>\$8,384.39</b>
Plus daily compensation owing for each day of occupation starting January 20, 2024	\$37.81 (per day)