



In the matter of:

Main and Second Floor, 231 CRESTHAVEN
RD
BRAMPTON ON L7A1G3

Between:

Irina Khomyakova

Landlord

**Order under Section 69 and 89
Residential Tenancies Act, 2006**

Citation: Khomyakova v Skidmore, 2024 ONLTB 6432

Date: 2024-01-19

File Number: LTB-L-054600-23

And

Linda Skidmore

Tenant

Irina Khomyakova (the 'Landlord') applied for an order to terminate the tenancy and evict Linda Skidmore (the 'Tenant') because:

- the Tenant did not pay the rent that the Tenant owes.
- the Tenant has been persistently late in paying the Tenant's rent.

The Landlord also claimed charges related to NSF cheques.

This application was heard by videoconference on January 15, 2024.

Only the Landlord attended the hearing.

As of 2:30PM, 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 Landlord's evidence.

Determinations:

The L1 application

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 \$2,490.75. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$81.89. This amount is calculated as follows: $\$2,490.75 \times 12$, divided by 365 days.
5. The Tenant has paid \$7,450.00 to the Landlord since the application was filed.
6. The rent arrears owing to January 31, 2024 are \$8,603.00.
7. The Landlord is entitled to \$40.00 to reimburse the Landlord for administration charges the Landlord incurred as a result of 2 cheque given by or on behalf of the Tenant which was returned NSF.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlord collected a rent deposit of \$2,400.00 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.
10. Interest on the rent deposit, in the amount of \$150.44 is owing to the Tenant for the period from January 6, 2020 to January 15, 2024.
11. The Landlord submitted that there were discussions with the Tenant about payment plans to address the arrears at various times. However, the Landlord testified that the Tenant has not replied to the Landlord since November.
12. The Landlord testified that she is experiencing significant financial hardship due to the arrears. The Landlord testified that she has 3 children and her mother has recently immigrated to Canada and that she is trying to support them. The Landlord testified that she is having trouble making mortgage payments and is unsure if she can make the February mortgage payment.

The L2 application

1. The Landlord served the Tenant with a Notice to End Tenancy Early for Persistent Late Payment of Rent (N8 Notice) with a Termination date of August 31, 2023. The Notice was served on the Tenant on July 2, 2023. Based on this, I find the Notice has met the statutory times required in the *Residential Tenancies Act, 2006* (the 'Act').

2. At the time that the Notice was served, the Notice alleges that the Tenant was late 5 times in 2023. At hearing, the Landlord produced a schedule and testified that the Tenant was late paying the rent 9 times in 2023.
3. Based on the Landlord's evidence I find that the Tenant has persistently failed to pay the rent on the date it was due. The rent is due on the first day of each month. The rent has been paid late 9 times in the past year. Based on this, I find that the Tenant is persistently late paying rent.

Relief from Eviction

4. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of 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. Pursuant to the L2 Application, the tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before January 30, 2024.
2. The Tenant shall pay the Landlord any rent arrears owing up to the date of the hearing and the cost of filing the application and unpaid NSF charges. The amount of the rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenant.
3. As of the date of the hearing, the Tenant owes the Landlord \$5,016.16.
4. The Tenant shall also pay the Landlord compensation of \$81.89 per day for the use of the unit starting January 16, 2024 until the date the Tenant moves out of the unit.
5. If the Tenant does not pay the Landlord 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.
6. 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.
7. 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 January 31, 2024.

January 19, 2024

Henry Yeung

Member, Landlord and Tenant Board

Date Issued

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 as the tenancy is terminated

Rent Owing To Hearing Date	\$14,790.60
Application Filing Fee	\$186.00
NSF Charges	\$40.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$7,450.00
Less the amount of the last month's rent deposit	- \$2,400.00
Less the amount of the interest on the last month's rent deposit	- \$150.44
Total amount owing to the Landlord	\$5,016.16
Plus daily compensation owing for each day of occupation starting January 16, 2024	\$81.89 (per day)

2024 ONLTB 6432 (CanLII)