



**Order under Section 87 88.2
Residential Tenancies Act, 2006**

Citation: Nabifar v Smyrniotis, 2024 ONLTB 9590

Date: 2024-02-06

File Number: LTB-L-005594-23

2024 ONLTB 9590 (CanLII)

In the matter of: 42 Glencrest Blvd
East York Ontario M4B1L4

Between: Afshin Nabifar Landlord

And

Zoi Smyrniotis Former Tenant
Eraklis Smyrniotis

Afshin Nabifar (the 'Landlord') applied for an order requiring (the 'Former Tenant') to pay the rent and daily compensation that the Former Tenant owes.

Afshin Nabifar (the 'Landlord') applied for an order requiring (the 'Former Tenant') to pay the Landlord's reasonable out-of-pocket costs that are the result of the Former Tenant's failure to pay utility costs they were required to pay under the terms of the tenancy agreement.

This application was heard by videoconference on January 11, 2024.

The Landlord's legal representative, Ali Golabgir, and a witness for the Landlord attended the hearing.

As of 10:40am, the Former Tenant was not present or represented at the hearing although properly served with notice of this hearing by the Landlord. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. As explained below, the Landlord proved the allegations contained in the application on a balance of probabilities. Therefore, the Tenant owes the Landlord \$8,870.08.

Landlord's amended application

2. The Landlord served the original application and notice of hearing to the Former Tenant on September 7, 2023 by handing the documents to the Former Tenant.
3. The Landlord's legal representative amended the application and served the amended application to the Tenant on January 5, 2024.
4. A copy of the amended application was submitted to the Board which indicated the Landlord was seeking a lower amount claimed for unpaid utilities. The Landlord's legal representative indicated there was a payment the Tenant had made that was not accounted for in the original application.
5. Given the amendment is in favour of the Tenant I accepted the amendment request from the Landlord's legal representative in accordance with the Board's Rule 15.
6. Nonetheless I pointed out to the Landlord's legal representative that I was satisfied the Tenant was properly served with the notice of hearing, the amended application was not served more than 30 days from the date of the hearing as required in accordance with the Board's Rule 5.8.
7. The Landlord's legal representative requested to proceed with the amended application and the hearing proceeded.
8. The Former Tenant vacated the rental unit on April 23, 2022.
9. The application was filed within one year after the Former Tenant ceased to be in possession of the rental unit.

Rent and daily compensation owing

8. Based on the rent, the daily rent/compensation is \$106.85. This amount is calculated as follows: \$3,250.00 x 12, divided by 365 days.
9. The Former Tenant has not made any payments since the application was filed.
10. The rent arrears and daily compensation owing to are \$7,750.00.
11. The Landlord applied the last month's rent deposit to the last month of the tenancy in accordance with the Act and therefore the Landlord is not holding a last month's rent deposit.

12. I am satisfied with the uncontested evidence submitted by the Landlord that the Tenant did not pay the lawful rent owing for the period of January 1, 2022 to March 31, 2022 and owes the Landlord \$7,750.00.

Compensation for unpaid utility costs

14. The Former Tenant failed to pay water utility costs that they were required to pay under the terms of the tenancy agreement.
15. The Landlord incurred reasonable out-of-pocket expenses of \$919.08 as a result of the Former Tenant's failure to pay water utility costs.
16. To support the Landlord's claim the Landlord submitted copies of unpaid water utilities the Tenant was obligated to pay in accordance with the tenancy agreement.
13. The Landlord incurred costs of \$201.00 for filing the application and entitled to reimbursement of those costs.
14. I have considered all of the evidence presented at the hearing and all of the oral testimony and although I may not have referred to each piece of evidence individually or referenced all of the testimony, I have considered it when making my determinations.
15. This order contains all reasons for the determinations and order made. No further reasons will be issued.

It is ordered that:

1. The Former Tenant shall pay to the Landlord \$7,750.00, which represents rent and compensation owing up to April 23, 2022.
2. The Former Tenant shall also pay to the Landlord \$919.08 which represents the reasonable out-of-pocket expenses the Landlord incurred as a result of the unpaid utility costs.
3. The Former Tenant shall pay to the Landlord \$201.00 for the cost of filing the application.
4. The total amount the Former Tenant owes the Landlord is \$9,399.48*. See Schedule 1 for the calculation of the amount owing.
5. If the Former Tenant does not pay the Landlord the full amount owing on or before February 17, 2024, the Former Tenant will start to owe interest. This will be simple interest calculated from February 18, 2024 at 7.00% annually on the balance outstanding.

February 6, 2024

Date Issued

Greg Brocanier

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.

* Refer to the attached Summary of Calculations.

**Schedule 1 SUMMARY
OF CALCULATIONS**

Amount the Former Tenant must pay the Landlord:

Rent and Compensation Owing To	\$7,750.00
Utility Costs	\$919.08
Application Filing Fee	\$201.00
Total amount owing to the Landlord	\$8,870.08