



**Order under Section 21.2 of the
Statutory Powers Procedure Act and the
Residential Tenancies Act, 2006**

Citation: Hanna v Beggs, 2024 ONLTB 61690

Date: 2024-08-21

File Number: LTB-L-051015-23 RV

In the matter of: 973 Dearness Drive
London ON N6E1N6

Between: Albeir Hanna Landlord

And

Brittney Beggs Tenant

Albeir Hanna (the 'Landlord') applied for an order to terminate the tenancy and evict Brittney Beggs and Kenneth Casemore (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

The application was resolved by order LTB-L-051015-23 issued on December 13, 2023.

On February 29, 2024, the Tenant Kenneth Casemore requested a review of order LTB-L-051015-23.

On March 1, 2024, interim order LTB-L-051015-23 was issued, directing the review to a hearing. The review was heard by videoconference on April 24, 2024. The Tenant's review request was granted and the matter scheduled to be heard *de novo*.

The *de novo* hearing was held by videoconference on August 13, 2024.

The Landlord's agent Daniel Hanna (DH) and the former Tenant Kenneth Casemore (KC) attended the hearing.

As of 1:22 pm, the Tenant Britany Beggs (BB) was not present at the hearing. The Board record confirms the Notice of Hearing was mailed to her former address and was not returned to the LTB. The Tenant BB vacated the rental unit on August 25, 2023. The Landlord provided no further submissions on this issue.

KC said that he sent BB a text message and an email specific to this hearing date and BB responded to KC that she wanted to discuss the matter prior to the hearing. KC said they did not connect before this hearing.

Determinations:

Preliminary Issue – Is KC a Properly Named Party?

1. At the hearing, KC submitted that he should not be a party to the application as he vacated the rental unit in September 2020. KC said that he does not owe the Landlord rent arrears.
2. The Landlord takes the position that KC did not notify the Landlord he vacated and the Landlord understood him to be a Tenant at the rental unit.
3. The Tenant's evidence includes: leases, rent receipt, LTB forms, loan report and various communications.
4. The Landlord did not submit any documentary evidence.
5. Although this order does not specifically address each piece of evidence individually or reference all of the testimony, I have considered all of the evidence and oral testimony when making my determinations.
6. KC said that he moved out of the rental unit mid September 2020 due to a breakdown of his relationship with BB and he never returned to the rental unit. He said he has lived elsewhere at all material times. KC provided copies of various lease agreements to support his claim. KC acknowledges that he did not advise the Landlord that he vacated the rental unit due to the stressful circumstances surrounding his departure and challenges connecting with the Landlord due to his travel abroad.
7. However, KC said that BB advised the Landlord that KC moved out and the Landlord entered into a Temporary Amendment to the Lease Agreement, dated October 23, 2020 and was signed by BB, her witness, the Landlord and his witness. BB is identified as the Tenant and KC is referred to as the "older Tenant".
8. The Landlord's agent believed the document was signed by his father, the Landlord. He also acknowledged that they did not further inquire about KC's circumstances and the reference to "older" Tenant.
9. The parties did not submit a signed lease agreement. KC said the agreement was executed between himself and the Landlord around November 2018 and the agreement named KC as the Tenant. KC did not provide a signed version of the lease agreement as the signed copy was left in the rental unit when he vacated.
10. The Landlord's agent said that as a new Landlord they were unaware of rights and responsibilities of landlords and tenants and hired a paralegal who retains all physical documents. He said, despite several attempts to connect with the paralegal, he has been unsuccessful.
11. KC also submitted into evidence, several documents where the Landlord and/or his agent refers to BB as the Tenant. Various notices and certificate(s) of service were issued to BB identify her as the sole Tenant.

12. The Landlord's agent said they understood that BB was their main point of contact and therefore only named her on the various documents as they were unclear of their obligations.
13. Based on the submissions of the parties, I find that KC entered into a lease agreement with the Landlord around November 2018. I am also satisfied that KC did not provide the Landlord with proper notice to terminate the tenancy.
14. However, I am satisfied that the Landlord became aware of KC's departure from the rental unit around October 23, 2020 and entered into a new lease agreement with BB. I considered that the Landlord did not attempt to contact KC to discuss his tenancy. I also considered that the Landlord did not make any application with the Board regarding BB as an unauthorized occupant. The evidence supports the proposition that KC vacated around September 2020 and BB and the Landlord entered into a new tenancy agreement.
15. Subsection 87(1)(b) of the Act provides that a landlord may apply to the Board for rent arrears against a tenant no longer in possession of a rental unit so long as the tenant ceased to be in possession on or after the day subsection 18 (1) of Schedule 4 to the Protecting Tenants and Strengthening Community Housing Act, 2020 comes into force. The provision referred to in subsection 87(1)(b) of the Act came into force September 1, 2021. In this case, KC. vacated before September 1, 2021.
16. I find that KC did not maintain any form of control over the rental unit, he did not reside nor visit the rental unit following his departure. Based on the totality of evidence presented at the hearing, I am satisfied the Landlord entered into a subsequent lease agreement with BB.
17. Accordingly, the order reflects BB as the Tenant subject to the Landlord's L1 application.

The L1 Application

18. 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.
19. The Tenant was in possession of the rental unit on the date the application was filed.
20. The Tenant vacated the rental unit on August 25, 2023. Rent arrears are calculated up to the date the Tenant vacated the unit.
21. The lawful rent is \$1,850.00. It was due on the 1st day of each month.
22. The Tenant has not made any payments since the application was filed.
23. The rent arrears owing to August 25, 2023 are \$23,902.96.
24. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
25. The Landlord collected a rent deposit of \$1,850.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit is applied to the arrears of rent because the tenancy terminated.

26. Interest on the rent deposit, in the amount of \$126.23 is owing to the Tenant for the period from January 1, 2019 to August 25, 2023.
27. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of August 25, 2023, the date the Tenant moved out of the rental unit
2. The Tenant shall pay to the Landlord \$22,112.73. This amount includes rent arrears owing up to the date the Tenant moved out of the rental unit and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit is deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.
3. If the Tenant does not pay the Landlord the full amount owing on or before September 1, 2024, the Tenant will start to owe interest. This will be simple interest calculated from September 2, 2024 at 7.00% annually on the balance outstanding.

August 21, 2024

Date Issued

Dana Wren

Member, Landlord and Tenant Board

15 Grosvenor St, 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.

**Schedule 1
SUMMARY OF CALCULATIONS**

A. Amount the Tenant must pay as the tenancy is terminated

Rent Owing To Move Out Date	\$23,902.96
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$1,850.00
Less the amount of the interest on the last month's rent deposit	- \$126.23
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlord	\$22,112.73

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