



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

Citation: Morguard NAR Canada Limited Partnership v Butt, 2024 ONLTB 11520

Date: 2024-02-15

File Number: LTB-L-040258-23

In the matter of: 904, 43 THORNCLIFFE PARK DR
TORONTO ON M4H1J4

Between: Morguard NAR Canada Limited Partnership Landlord

And

Asif Iqbal Butt Tenant

Morguard NAR Canada Limited Partnership (the 'Landlord') applied for an order to terminate the tenancy and evict Asif Iqbal Butt (the 'Tenant') because:

- the Tenant has been persistently late in paying the Tenant's rent.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on January 29, 2024.

Only the Landlord's Legal Representative, Faith McGregor, attended the hearing.

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:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the tenancy will be terminated on February 26, 2024.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On May 2, 2023, the Landlord gave the Tenant an N8 notice with a termination date of July 31, 2023. The notice of termination alleges the Tenant persistently paid their rent late 11

out of the 12 past months. The rent is due on the 1st day of each month. The Tenant was late (or did not pay) the rent as follows:

- a. May 2022 – paid May 25, 2022
- b. June 2022 – paid June 6, 2022

File Number: LTB-L-040258-23 c. July 2022 – paid July 12, 2022

- d. August 2022 – paid September 23, 2022
- e. September 2022 – paid October 18, 2022
- f. October 2022 – paid October 26, 2022
- g. November 2022 – paid ON TIME (October 31, 2022)
- h. December 2022 – paid January 5, 2023
- i. January 2023 – paid February 13, 2023
- j. February 2023 – paid February 13, 2023
- k. March 2023 – not paid in full
- l. April 2023 – not paid

- 4. Based on the dates provided, I find that paying rent late 11 out of 12 times constitutes persistent late payment of rent.
- 5. The Landlord serves N4s and sends letters when the Tenant fails to pay their rent by the date it is due. The Tenant knew or ought to have known they were required to pay their rent on or before the 1st of each month.
- 6. Since serving the notice, the Tenant was late paying the rent for the months of May 2023 to October 2023.
- 7. The Tenant paid the rent for November and December 2023, and January 2024 on or before the 1st of the month.
- 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 \$1,710.31 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$46.15 is owing to the Tenant for the period from January 1, 2023 to January 29, 2024.
- 10. In accordance with subsection 106(10) of the *Residential Tenancies Act, 2006*, (the 'Act') the last month's rent deposit shall be applied to the rent for the last month of the tenancy.

Relief from eviction

11. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
12. The Tenant was on time for the rent payments for the last 3 months. However, the Tenant failed to make rent payments on time for a period of 11 out of 12 months. After being served notice by the Landlord, the Tenant failed to rectify the problem. In the absence of any evidence from the Tenant, I am not satisfied that the Tenant could comply with a pay on time order.

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It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before February 26, 2024.
2. If the unit is not vacated on or before February 26, 2024, then starting February 27, 2024, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. 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 February 27, 2024.
4. The Tenant shall pay the Landlord compensation of \$55.36 per day for the use of the unit starting January 30, 2024 until the date the Tenant moves out of the unit.
5. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
6. The Landlord owes \$1,756.46 which is the amount of the rent deposit and interest on the rent deposit, and this is deducted from the amount owing by the Tenant.
7. If the Tenant does not pay the Landlord the full amount owing on or before February 26, 2024, the Tenant will start to owe interest. This will be simple interest calculated from February 27, 2024 at 7.00% annually on the balance outstanding.

February 15, 2024

Date Issued

Elena Jacob

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 of the Tenant expires on August 27, 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.