



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

Citation: Jenne v Skov, 2023 ONLTB 81618

Date: 2023-12-22

File Number: LTB-L-052079-23

In the matter of: 49 ROSEDALE AVE
ST CATHARINES ON L2P1Y6

Between: Shirley Marie Jenne Landlord

And

Dave Skov Tenant

Shirley Marie Jenne (the 'Landlord') applied for an order to terminate the tenancy and evict Dave Skov (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on November 9, 2023.

The Landlord and her daughter Karly Saunders and the Tenant attended the hearing.

Determinations:

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 \$400.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$13.15. This amount is calculated as follows: \$400.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to November 30, 2023 are \$6,800.00.

7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. There is no last month's rent deposit.
9. The Tenant moved into the Landlord's house in September 2005.
10. She has been charging him only \$400 for utilities in rent since that time.
11. She wanted to give him a roof over his head.
12. She has been renovating her house. He would occupy ½ while she renovated the other ½, and then vice versa.
13. The Tenant has paid nothing for the last 1.5 years.
14. She sought to evict him by means of an N12, in application LTB-L-070838-22.
15. That application was dismissed under s. 83(3)(a) of the *Residential Tenancies Act, 2006* (the 'Act'), because he did not have hot water owing to the absence of a water tank. Hot water is a vital service under s. 2 of the Act.
16. The Landlord testified that within 2 weeks of that order, dated May 11, 2023, there was hot water in the unit.
17. Thus, the Tenant did not have hot water from May 2021 to May 2023.
18. The Tenant also testified that he did not have heat. He did not raise that issue in LTB-L070838-22.
19. But the Landlord testified that heat came on in October 2023, and before that, the Tenant had two space heaters which was more than enough.
20. I prefer the Landlord's evidence here, given the fact that the Tenant did not raise the issue in the hearing of LTB-L-070838-22.
21. The Landlord claims \$6,800 for rent from July 2022 to November 2023.
22. So, the Tenant had no heat from July 2022 to May 2023.
23. This application was filed in July 2023, and the N4 was served in June 2023, after hot water was restored.
24. Clearly the issue of the hot water has been rectified, but the Tenant was without hot water for 11 months.
25. Despite this, the Tenant has paid nothing to the Landlord for 1.5 years.
26. I am prepared to offer the Tenant an abatement of rent for the 11 months he did not have hot water.
27. The rent is \$400. I will discount the rent by \$100/month, in lieu of the fact that not having hot water is a critical issue. Thus, 11 x \$100 = \$1,100. Thus, the amount of rent owing is reduced to \$5,700.

28. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (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.
29. The Landlord is under financial hardship. She has had to start her pension early in order to be able to pay for the mortgage on the house as a result of the non payment of rent. She is 62.
30. She offered the Tenant a payment plan but he did not respond.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
2. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - **\$6,286.00** if the payment is made on or before December 31, 2023. See Schedule 1 for the calculation of the amount owing.

OR

- **\$6,686.00** if the payment is made on or before January 3, 2024. See Schedule 1 for the calculation of the amount owing.
3. The Tenant 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 January 3, 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 Tenant does not pay the amount required to void this order the Tenant must move out of the rental unit on or before January 3, 2024**
 5. If the Tenant does not void the order, the Tenant shall pay to the Landlord **\$5,604.35**. 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 Tenant shall also pay the Landlord compensation of \$13.15 per day for the use of the unit starting November 10, 2023 until the date the Tenant moves out of the unit.
 7. If the Tenant does not pay the Landlord the full amount owing on or before January 2, 2024, the Tenant will start to owe interest. This will be simple interest calculated from January 3, 2024 at 7.00% annually on the balance outstanding.
 8. If the unit is not vacated on or before January 3, 2024, then starting January 4, 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 January 4, 2024.

December 22, 2023

Date Issued

James Campbell
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 July 4, 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 to void the eviction order and continue the tenancy if the payment is made on or before December 31, 2023

Rent Owing To December 31, 2023	\$7,200.00
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 the Landlord owes the Tenant for an abatement	- \$1,100.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total the Tenant must pay to continue the tenancy	\$6,286.00

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before January 3, 2024

Rent Owing To January 31, 2024	\$7,200.00
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 the Landlord owes the Tenant for an abatement	- \$1,100.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total the Tenant must pay to continue the tenancy	\$6,686.00

C. Amount the Tenant must pay if the tenancy is terminated

Rent Owing To Hearing Date	\$6,118.35
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	- \$0.00
Less the amount of the interest on the last month's rent deposit	- \$0.00
Less the amount the Landlord owes the Tenant for an abatement	- \$1,100.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00

Total amount owing to the Landlord	\$5,604.35
Plus daily compensation owing for each day of occupation starting November 10, 2023	\$13.15 (per day)