



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

**Citation:** Accommod8u Inc v Sidhu, 2023 ONLTB 78959

**Date:** 2023-12-22

**File Number:** LTB-L-045470-23

**In the matter of:** 231, 130 COLUMBIA ST W  
WATERLOO ON N2L0G6

**Between:** Accommod8u Inc Landlord

**And**

Krysta Sidhu Tenant

Accommod8u Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Krysta Sidhu (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on November 23, 2023.

The Landlord's legal representative G. StClair and the Tenant and the Tenant's witness R. Sidhu ('R.S') 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. The following facts are relevant for this application:
  - The tenancy began on September 4, 2022.
  - The tenancy agreement had a three-year fixed term ending August 27, 2025.
  - The rent was due on the first day of each month.
  - At all material times the monthly rent was \$2,532.70. Based on the monthly rent, the daily rent/compensation is \$83.27. This amount is calculated as follows:  
 $\$2,532.70 \times 12$ , divided by 365 days.
  - At the start of the tenancy the Landlord collected a rent deposit in the amount of \$2,406.07.
  - The parties agree that the Tenant is no longer in possession of the rental unit, but they disagree on the date the tenancy ended.

- The last month the Tenant paid rent was April 2023. The rent is fully paid up to April 30, 2023.
- The Landlord re-rented the rental unit beginning September 1, 2023.

When is the Tenant responsible for paying rent up until?

3. The Tenant's position is that she delivered vacant possession of the rental unit to the Landlord at the end of April 2023 and, therefore, she should only be responsible for the rent up to April 30, 2023. The Tenant had been subletting the rental unit since December 2022. The subtenant moved out at the end of April 2023 and the Tenant never moved back in.
4. The Landlord's position is that the parties agreed that the tenancy would terminate on June 30, 2023 and, therefore, the Tenant should be responsible for paying rent up to that date.
5. The parties do not dispute that the Tenant sent an email to the Landlord's property manager on May 3, 2023, stating that since she was unable to find another subtenant to occupy the unit, she wished to terminate the tenancy early.
6. The parties also do not dispute that the property manager then called the Tenant to say that the Landlord would not be accepting the Tenant's email/not because the Landlord required at least 60 days' notice of termination.
7. The Tenant testified that after the subtenant vacated the unit at the end of April 2023, she left all the keys for the unit on the unit floor and she never returned to the unit. The Tenant testified that she never occupied the unit again after the subtenant moved out at the end of April 2023.
8. Section 37 of the *Residential Tenancies Act, 2006* (the 'Act') states that a tenancy can only be terminated in accordance with the Act. According to section 37, a tenancy can be lawfully terminated by a notice of termination or an agreement to terminate.
9. In the present situation, the Tenant claims that they provided notice of termination through their email from May 3, 2023; however, I am not satisfied that this was a valid notice. Section 44(4) of the Act states:

*Period of notice, tenancy for fixed term:*

*(4) A notice under section 47, 58 or 144 to terminate a tenancy for a fixed term shall be given at least 60 days before the expiration date specified in the tenancy agreement, to be effective on that expiration date. 2006, c. 17, s. 44 (4).*

Therefore, the termination date in this case could not have been earlier than August 27, 2025.

10. I am also not satisfied that there was an agreement to terminate. An agreement requires a clear meeting of the mind with respect to the termination date. That was not the case here.

At no time did the parties clearly agree that the tenancy would end on June 30, 2023 or on any other date.

11. The parties do not dispute that the unit was re-rented on September 1, 2023. Therefore, there is no doubt that the Tenant is not responsible for paying rent beyond August 31, 2023. There cannot be two simultaneous tenancies for the same rental unit.
12. Under section 16 of the Act, the Landlord had a duty to mitigate its losses in the situation. I am not satisfied that they did so in the circumstances. The Landlord's legal representative testified that the Landlord did not conduct a unit inspection after May 3, 2023, even though the Tenant had communicated her intention to move out. Instead, they notified the Tenant that they were prepared to accept a termination date of June 30, 2023, but they did not confirm that the Tenant agreed to that termination date. Additionally, the Landlord did not re-rent the unit until September 1, 2023, several months after the Tenant moved out. The Landlord did not present any evidence to establish when they began looking for a new tenant after they became aware that the Tenant was planning to move out. Similarly, the Landlord never followed up with the Tenant to confirm their agreement to terminate the tenancy on a specific date.
13. At the same time, the Landlord is only seeking arrears up to June 30, 2023.
14. In the circumstances, I find it appropriate to find the Tenant responsible for rent until May 31, 2023. I find this date is appropriate, as it accounts for both the Tenant's failure to provide proper notice of termination in accordance with the Act as well as the Landlord's failure to adequately mitigate their losses in the circumstances. I find this is a fair compromise between the dates when each of the parties believes the Tenant should be responsible for rent until.

**The amount owing**

15. The Tenant has not made any payments since the application was filed.
16. Accordingly, I find that the rent arrears owing to May 31, 2023 are \$2,532.70.
17. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
18. The Landlord collected a rent deposit of \$2,406.07 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.
19. Interest on the rent deposit, in the amount of \$51.58 is owing to the Tenant for the period from July 23, 2022 to May 31, 2023.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenant is terminated as of May 31, 2023, the date the Tenant moved out of the rental unit.
2. The Tenant shall pay to the Landlord \$261.05. 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 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.

**December 22, 2023**

**Date Issued**

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Joy Xiao

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	\$2,532.70
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount of the last month's rent deposit	- \$2,406.07
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$51.58
<b>Less</b> the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total amount owing to the Landlord</b>	<b>\$261.05</b>