



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

**Citation:** Baker v Gagnon, 2023 ONLTB 78419

**Date:** 2023-12-14

**File Number:** LTB-L-059938-23

**In the matter of:** 3, 113 Marquette Avenue Ottawa  
Ontario K1L5J7

**Between:** Sebastien Baker Landlord

**And**

Isabelle Gagnon Tenant

Sebastien Baker (the 'Landlord') applied for an order to terminate the tenancy and evict Isabelle Gagnon (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 and the Tenant attended the hearing. The Tenant spoke with Duty Counsel prior to the hearing.

**Determinations:**

1. The Landlord served the Tenant with a defective Notice to End Tenancy Early for Nonpayment of Rent (N4 Notice). As a result, the Landlord's application could not proceed.
2. The Landlord submitted that the lawful rent was 954.11 plus an additional service fee for parking in amount of \$100.00. They confirmed that the increase in the parking fee was not in accordance with the guideline amount. As a result, the increase in parking fees is deemed illegal and therefore cannot be charged to the Tenant, thus rendering the N4 notice of termination defective.
3. Section 2 of the Act defines rent as:

“rent” includes the amount of any consideration paid or given or required to be paid or given by or on behalf of a tenant to a landlord or the landlord's agent for the right to occupy a rental unit and for any **services** and **facilities** and **any privilege**, accommodation or thing that the landlord provides for the tenant in respect of the occupancy of the rental unit, **whether or not a separate charge is made for**

services and facilities or for the privilege, accommodation or thing, (emphasis added)

Order Page 1 of 2

**File Number:** LTB-L-059938-23

2023 ONL TB 78419 (CanLII)

4. The provision of parking is a service, facility or any privilege offered by the Landlord, even if there is a separate charge listed in the residential lease agreement. As a result, the Landlord could only increase the rent and fees for services facility or privilege by the guideline amount published by the Ministry of Municipal Affairs and Housing once annually.
5. The Landlord was also advised that his refusal to collect the rent payments would have meant that the Tenant may have been entitled to relief from eviction since any arrears would not be the fault of the Tenant.
6. The Landlord was also advised that since the lease agreement provides for parking, that the Landlords failure to provide a valid parking permit to the Tenant to permit parking in their designated parking space, or face towing and related charges could have also warranted relief from eviction. The Landlord indicated that he refused to provide the parking pass because of the dispute over parking charges and because he refused to collect the rent payments from the Tenant.
7. The Board declined to hear the issues the Tenant intended to raise at the hearing, noting that the application was being dismissed and that this would not impact the Tenant's rights under the Act.

**It is ordered that:**

1. The Landlord application is dismissed.

**December 14, 2023**

**Date Issued**

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Robert Patchett

Vice Chair, 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.