



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** Mulla v Robinson, 2023 ONLTB 73193

**Date:** 2023-11-09

**File Number:** LTB-L-045657-23

**In the matter of:** 28 BEN STANTON BLVD  
SCARBOROUGH ON M1H1N8

**Between:** Farzana Mulla Landlord

**And**

Ashley Anne Robinson Tenant  
Daniel Norman Robinson

Farzana Mulla (the 'Landlord') applied for an order to terminate the tenancy and evict Ashley Anne Robinson and Daniel Norman Robinson (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on October 24, 2023.

The Landlord, the Landlord's Legal Representative and the Tenant Ashley Robinson attended the hearing.

**Determinations:**

Tenant's adjournment request

1. The Tenant requested an adjournment because her phone number and email address on the Board's records were wrong, and she had not received the Notice of Hearing in time to present her side. She only became aware of the hearing when she received the Landlord's email with the update sheet.
2. I find based on the Board's records that the Notice of Hearing was mailed to the Tenant at the rental unit on August 1, 2023, deemed received on August 6, 2023. Therefore, I satisfied that the Tenant was served with the Notice of Hearing in accordance with the *Residential Tenancies Act, 2006* ("Act") more than two months before the hearing. Also, the other Tenant listed on the application Daniel Norman Robinson has a correct email address on file.
3. The Tenant also wanted an adjournment because she retained a legal representative on October 19, 2023 and they were not available today to attend.
4. The Landlord objected because the Tenant did not inform either the Board or the Landlord about this request prior to the day of the hearing. The Tenant's legal representatives has not attempted to contact the Landlord prior to the hearing.

5. The Landlord's Legal Representative also objected because the rent arrears are high and the Tenant has not paid any rent since the first month of the tenancy which started on April 1, 2023. The Landlord asserts that the Tenant is trying to delay the eviction by asking for an adjournment.
6. I refused to grant an adjournment since a delay would be very prejudicial to the Landlord. While parties have a right to legal representation, it is not an absolute right and parties are expected to make reasonable efforts to obtain counsel who are available on the hearing date.
7. In this case the Tenant only started looking for a legal representation after she received the Landlord's email on October 17, 2023. The Tenant states that her legal representative was retained on October 17, 2023, but they made have no effort to reach out to the Landlord or the Board before the hearing.

#### Rent arrears

8. 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.
9. As of the hearing date, the Tenant was still in possession of the rental unit.
10. The lawful rent is \$3,700.00. It is due on the 1st day of each month.
11. Based on the Monthly rent, the daily rent/compensation is \$121.64. This amount is calculated as follows:  $\$3,700.00 \times 12$ , divided by 365 days.
12. The Tenant has not made any payments since the application was filed.
13. The rent arrears owing to October 31, 2023 are \$22,200.00.
14. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
15. There is no last month's rent deposit.

#### Relief from eviction

16. 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.
17. The Landlord is a single female with one income living with family and borrowing money from family to keep the mortgage paid. She offered the Tenant a payment plan before and the Tenant offered today to pay off everything by December 5, 2023 which the Landlord found unacceptable.
18. The tenancy is very short lived, and the Tenant stopped paying the second month itself.

19. The Tenant testified that she and her son both got laid off in May 2023 a month after they rented the house, and the Tenant has been struggling ever since. She has four children aged 23, 17, 16 and 16 years old. The older son who was working before has also gone back to full-time school. She has been receiving EI for the last few months. She also testified that she has not been paying rent due to maintenance issues. The Tenant also lost her dog in the months following the move into the rental unit. The Tenant stated that she will be receiving a lumpsum from her mother's estate on December 5, 2023 so she should be granted additional time to pay off the amount.
20. Based on the evidence before me, I do not find that the Tenant can sustain the tenancy with her current circumstances. She does not have a stable job, she has made not a single rent payment since the application was filed, she has provided no proof of her mother's estate payout. I find that the prejudice to the Landlord will be higher if I grant a delay in termination of the tenancy beyond November 25, 2023.

**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:**
  - \$26,086.00 if the payment is made on or before November 25, 2023. 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 November 25, 2023 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 November 25, 2023.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$21,605.36. 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 \$121.64 per day for the use of the unit starting October 25, 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 November 20, 2023, the Tenant will start to owe interest. This will be simple interest calculated from November 21, 2023 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before November 25, 2023, then starting November 26, 2023, 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 November 26, 2023.

**November 9, 2023**  
**Date Issued**

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Sheena Brar  
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 May 26, 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 November 25, 2023**

Rent Owing To November 30, 2023	\$25,900.00
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 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 the Tenant must pay to continue the tenancy</b>	<b>\$26,086.00</b>

**B. Amount the Tenant must pay if the tenancy is terminated**

Rent Owing To Hearing Date	\$21,419.36
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	- \$0.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$0.00
<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>\$21,605.36</b>
Plus daily compensation owing for each day of occupation starting October 25, 2023	\$121.64 (per day)