



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** Durco v Ekpen, 2023 ONLTB 70051

**Date:** 2023-10-25

**File Number:** LTB-L-039899-23

**In the matter of:** 15, 27 TURNER DR  
SARNIA ON N7S4R9

**Between:** Kari Durco Landlord

**And**

Tebogo Ekpen Tenant

Kari Durco (the 'Landlord') applied for an order to terminate the tenancy and evict Tebogo Ekpen (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on October 12, 2023.

The Landlord 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 \$1,300.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$42.74. This amount is calculated as follows: \$1,300.00 x 12, divided by 365 days.
5. The Tenant has paid \$2,600.00 to the Landlord since the application was filed.
6. The rent arrears owing to October 31, 2023, are \$7,800.00.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$1,300.00 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.
9. Interest on the rent deposit, in the amount of \$14.69 is owing to the Tenant for the period from May 1, 2023, to October 12, 2023.

10. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'). In particular, I have considered that the Tenant's financial situation appears to be very grim. I conducted a detailed analysis of the Tenant's monthly income and expenses and, based on the Tenant's testimony, I find that the Tenant consistently runs a monthly deficit and is unable to pay the monthly rent or her other monthly bills.
11. Also regarding the Tenant's financial situation, I have considered that the Tenant has an outstanding bank loan, she has an outstanding payday loan, she is in arrears with her utility bills, she is in arrears with her internet bill and her vehicle was recently repossessed. The only payments towards the arrears after the Landlord filed this application were made by a charitable organization. All of this suggests to me that this tenancy is not financially sustainable as the Tenant cannot afford the monthly rent and cannot afford the significant outstanding arrears.
12. I have also considered that this is a relatively long tenancy as the Tenant has lived in the rental unit along with her 3 children since 2019. As such, the Tenant is paying well below market rent for the rental unit. I have also considered that the Tenant's children are very young and are ages 8, 10 and 12.
13. However, I have also considered that most of the Tenant's bleak financial situation is due to circumstances that are beyond her control. The Tenant says that her ex-spouse routinely refuses to provide her with the money she and her children need to survive. The Tenant also has no family members to help her and no child care options. This means that the Tenant is forced to only work part time hours in order to care for her children, even though she has the opportunity in her job to work full time hours.
14. Finally, I have considered the Landlord's circumstances and I agree with the Landlord when she says she simply cannot financially support her household as well as the Tenant's household. The Landlord has attempted to work with the Tenant and has even provided her with money for her vehicle, but I find that this arrangement is no longer financially sustainable.
15. Given all of the above, and in light of all of the circumstances, I find that it would not be unfair to postpone the eviction until December 31, 2023, pursuant to subsection 83(1)(b) of the Act.

**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:**
  - \$7,986.00 if the payment is made on or before October 31, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

- \$9,286.00 if the payment is made on or before November 30, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

- \$10,586.00 if the payment is made on or before December 31, 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 December 31, 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 December 31, 2023**
  5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$5,884.19. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.
  6. The Tenant shall also pay the Landlord compensation of \$42.74 per day for the use of the unit starting October 13, 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 5, 2023, the Tenant will start to owe interest. This will be simple interest calculated from November 6, 2023 at 7.00% annually on the balance outstanding.
  8. If the unit is not vacated on or before December 31, 2023, then starting January 1, 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 1, 2024.

**October 25, 2023**  
**Date Issued**

\_\_\_\_\_  
 Laura Hartsliel  
 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 1, 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 October 31, 2023**

|  |                   |
|--|-------------------|
| Rent Owing To October 31, 2023   | \$10,400.00       |
| 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 | - \$2,600.00      |
| <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>\$7,986.00</b> |

**B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before November 30, 2023**

|  |                   |
|--|-------------------|
| Rent Owing To November 30, 2023  | \$11,700.00       |
| 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 | - \$2,600.00      |
| <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>\$9,286.00</b> |

**C. 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  | \$13,000.00  |
| 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 | - \$2,600.00 |
| <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>\$10,586.00</b> |
|--|--------------------|

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

|  |                      |
|--|----------------------|
| Rent Owing To Hearing Date   | \$9,612.88           |
| 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 | - \$2,600.00         |
| <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                                | - \$1,300.00         |
| <b>Less</b> the amount of the interest on the last month's rent deposit                | - \$14.69            |
| <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>\$5,884.19</b>    |
| Plus daily compensation owing for each day of occupation starting October 13, 2023     | \$42.74<br>(per day) |