



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

**Citation:** Delle Donne v Wood, 2023 ONLTB 68890

**Date:** 2023-10-24

**File Number:** LTB-L-050983-23

**In the matter of:** 66 68TH ST N  
WASAGA BEACH ON L9Z1T8

**Between:** Anna Delle Donne Landlord

**And**

Heather Wood Tenant

Anna Delle Donne (the 'Landlord') applied for an order to terminate the tenancy and evict Heather Wood (the 'Tenant') because:

- the Tenant did not pay the rent that the Tenant owes (L1 application)
- the Tenant has been persistently late in paying the Tenant's rent (L2 application)

The Landlord also applied for an order requiring the Tenant to pay the Landlord's reasonable out-of-pocket expenses that are the result of the Tenant's failure to pay utility costs they were required to pay under the terms of the tenancy agreement (L2 application).

The Landlord also claimed charges related to NSF cheques.

This application was heard by videoconference on October 10, 2023.

Only the Landlord's Representative Maria Sturino attended the hearing.

As of 11:21am, the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

**Determinations:**

L2 application

1. At the hearing, the Landlord withdrew their allegation with respect to persistent late payments.
2. The Landlord still claimed the utility costs that the Tenant was required to pay under the tenancy agreement.
3. The Landlord's application claimed water charges of \$103.33. However, the Landlord did not submit any evidence of these water charges incurred from April 1 to April 30, 2023, such as a water bill.
4. The Landlord also claimed water charges from May 1 to June 30, 2023 which were incurred after the application was filed for the same allegation. At the hearing, the Landlord submitted a water invoice of \$106.95 for this period.
5. While I would be prepared to consider amending the application to include these incurred charges after the application was filed, the necessary supporting evidence was not made available. I did not have access to the Landlord's file materials during the hearing due to technical issues and the water bill was screen shared to me.
6. The Landlord's file does not include the water invoice that was shown at the hearing. Therefore, it was not properly submitted into evidence in accordance with Rule 19.1 and I am unwilling to waive this Rule in these circumstances.
7. Furthermore, the Landlord did not submit the Lease Agreement in their file materials which is also necessary evidence to establish that the Landlord was actually entitled to the utilities claimed.
8. Therefore, I am not awarding the utilities costs.

L1 Application

9. 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.
10. As of the hearing date, the Tenant was still in possession of the rental unit.
11. The lawful rent is \$1,053.00. It is due on the 1st day of each month.
12. Based on the Monthly rent, the daily rent/compensation is \$34.62. This amount is calculated as follows:  $\$1,053.00 \times 12$ , divided by 365 days.
13. The Tenant has not made any payments since the application was filed.
14. The rent arrears owing to October 31, 2023 are \$7,371.00.
15. The Landlord is entitled to \$100.00 for bank fees the Landlord incurred as a result of 5 cheques given by or on behalf of the Tenant which were returned NSF.

16. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
17. There is no last month's rent deposit.
18. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would *not* be unfair to postpone the eviction until November 15, 2023 pursuant to subsection 83(1)(b) of the Act. While the Tenant was not present to explain any circumstances for relief, it is not unfair to briefly delay the eviction to provide the Tenant some more time to find another place to live.

**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:**
  - \$7,657.00 if the payment is made on or before October 31, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

  - \$8,710.00 if the payment is made on or before November 15, 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 15, 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 15, 2023.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$6,950.20. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application and unpaid NSF charges. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$34.62 per day for the use of the unit starting October 11, 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 15, 2023, the Tenant will start to owe interest. This will be simple interest calculated from November 16, 2023 at 7.00% annually on the balance outstanding.

8. If the unit is not vacated on or before November 15, 2023, then starting November 16, 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 16, 2023.

**October 24, 2023**

**Date Issued**

\_\_\_\_\_  
Elan Shemtov

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 16, 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	\$7,371.00
Application Filing Fee	\$186.00
NSF Charges	\$100.00
<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>\$7,657.00</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 15, 2023**

Rent Owing To November 30, 2023	\$8,424.00
Application Filing Fee	\$186.00
NSF Charges	\$100.00
<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>\$8,710.00</b>

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

Rent Owing To Hearing Date	\$6,664.20
Application Filing Fee	\$186.00
NSF Charges	\$100.00
<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>\$6,950.20</b>
Plus daily compensation owing for each day of occupation starting October 11, 2023	\$34.62 (per day)