



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

Citation: Capreit Limited Partnership v Williams, 2023 ONLTB 69235

Date: 2023-10-20

File Number: LTB-L-027670-23

In the matter of: 302, 148 ISLINGTON AVE
ETOBICOKE ON M8V3B6

Between: Capreit Limited Partnership Landlord

And

Sheanna Williams Tenant

Capreit Limited Partnership (the 'Landlord') applied for an order to terminate the tenancy and evict Sheanna Williams (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on September 25, 2023.

The Landlord's legal representative, Jason Paine, attended the hearing.

The Tenant also 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 \$1,737.37. It is due on the 1st day of each month.

4. Based on the Monthly rent, the daily rent/compensation is \$57.12. This amount is calculated as follows: $\$1,737.37 \times 12$, divided by 365 days.
5. The Tenant has paid \$3,550.00 to the Landlord since the application was filed.
6. The rent arrears owing to September 30, 2023 are \$15,423.96.
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 \$1,737.37 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 \$28.20 is owing to the Tenant for the period from February 1, 2023 to September 25, 2023.
10. The position of the Landlord is that this tenancy is a short term tenancy beginning in January 2022. This is the second time the Landlord and Tenant have been before the Board for an application for non payment of rent. The arrears to the day of the hearing are substantial, and the Tenant has not kept up with her lawful rent and the arrears are growing with each month.
11. The position of the Tenant is that she has just been hired into new employment. The Tenant receives work from a temp agency and she does not know what her new income amount will be.
12. The Tenant is a chef by trade and relies on the temp agency for work, however she stopped receiving work offers in early 2022. The Tenant testified the temp agency had employment files deleted, one of which was hers, that prevented the temp agency from being able to assign her to employment.
13. The Tenant did not submit any documentary evidence to the Board to support her claim.

Section 83: Relief From Eviction

14. Given the Tenant does not know what her income will be, the Tenant offered a repayment plan for the Board's consideration in the amount of \$500.00 per month in addition to her lawful rent.
15. The Landlord's legal representative denied the Tenant's repayment plan and stated the repayment plan would be longer than the duration of the tenancy up to the hearing date.
16. The Landlord is seeking a standard order for eviction and arrears.
17. The Tenant submitted she has two adult children, one son and one daughter ages 18 and 20 that live with her in the rental unit.

18. The Tenant's daughter goes to school and the son does not contribute to the rent.
19. The Tenant requested a delayed eviction date to November 30, 2023.
20. 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, including submissions from the Tenant she does not have young children or any persons with special needs that the Board needs to consider living with them.
21. Given the testimony of the Tenant that her current employment income is unknown I am not satisfied that the Tenant is able to preserve the tenancy and repay the Landlord the arrears in a reasonable time. The quantum of the arrears on the day of the hearing are substantial and growing every month as the Tenant is unable to pay her lawful rent in full.
22. For the reasons above, I find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
23. I have considered all of the evidence presented at the hearing and all of the oral testimony and although I may not have referred to each piece of evidence individually or referenced all of the testimony, I have considered it when making my determinations.
24. This order contains all reasons for the determinations and order made. No further reasons will be issued.

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:
 - \$17,347.33 if the payment is made on or before October 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 October 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 October 31, 2023
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$13,535.02. 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 \$57.12 per day for the use of the unit starting September 26, 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 October 31, 2023, the Tenant will start to owe interest. This will be simple interest calculated from November 1, 2023 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before October 31, 2023, then starting November 1, 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 1, 2023.

2023 ONL TB 69235 (CanLII)

October 20, 2023

Date Issued

Greg Brocanier

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 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	\$20,711.33
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$3,550.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total the Tenant must pay to continue the tenancy	\$17,347.33

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

Rent Owing To Hearing Date	\$18,664.59
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$3,550.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$1,737.37
Less the amount of the interest on the last month's rent deposit	- \$28.20
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlord	\$13,535.02
Plus daily compensation owing for each day of occupation starting September 26, 2023	\$57.12 (per day)