



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

**Citation:** Sankarsingh v Aidak, 2023 ONLTB 67184

**Date:** 2023-10-11

**File Number:** LTB-L-072856-22

**In the matter of:** 788 BROADWAY BLVD  
PETERBOROUGH ON K9H0H7

**Between:** Krishna Sankarsingh Landlords  
Seema Persad-sankarsingh

**And**

Ammar Aidak

Tenant

Krishna Sankarsingh and Seema Persad-sankarsingh (the 'Landlords') applied for an order to terminate the tenancy and evict Ammar Aidak (the 'Tenant') because:

- the Tenant has been persistently late in paying the Tenant's rent.

The Landlords also claimed compensation for each day the Tenant remained in the unit after the termination date.

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

The Landlords, the Landlords' Legal Representatives, Lavinia Volney and Sara Mathew, the Tenant, and the Tenant's support person, Qussai Antabi, attended the hearing.

**Determinations:**

1. As explained below, I am satisfied on a balance of probabilities that the Tenant persistently paid their rent late.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On August 4, 2022, the Landlord served the Tenant an N8 Notice of Termination alleging that the Tenant has persistently failed to pay the rent on the date it was due. The termination date on the N8 notice is October 31, 2022.
4. The N8 notice alleges that between February 2022 and May 2022, the Tenant has paid rent late. Specifically, it alleges that the Tenant had paid rent on February 3 2022, sometime in March of 2022, April 3 2022, and on May 2 2022. The Landlord submitted copies of e-transfers and bank records corresponding with these dates.
5. The Landlords also testified that out of a 20-month period, the Tenant has paid the rent late 11 times. The Landlords' Legal Representatives stated that they had not submitted any documentary evidence to support this.
6. The Landlords sought a termination of the tenancy and reimbursement of the application filing fee in the amount of \$186.00.

#### TENANT'S REQUEST FOR RELIEF

7. The Tenant does not dispute that the rent has been late for the period alleged by the Landlord. The Tenant testified that he was sick for the period of the late payments alleged in the N8 notice and this sickness prevented him from working and earning an income. The Tenant testified that despite these health issues, he still managed to pay within a reasonable time. The Tenant testified that he assumed that he was allowed to pay the rent between the 1<sup>st</sup> and 14<sup>th</sup> of every month. The Tenant testified that he did not purposefully withhold the rent and just assumed that he had this opportunity to pay rent late when he was falling on hard times. The confusion was clarified by the Landlords' Legal Representatives in a letter sent to the Tenant and the tenant confirmed this.
8. The Tenant seeks to preserve his tenancy and requested that I order a conditional order requiring him to pay the rent on the first of every month for the next twelve months. The Tenant testified that he has been paying rent on time and in full since February 2023 as his financial and health issues have improved. There was no dispute that his rent has been paid on time since February 2023.
9. The Landlords oppose the Tenant's request for relief as the Tenant has been late in paying their rent despite receiving the N8 notice and warning letters from the Landlords. Moreover, there was no *documentary* evidence before the Board suggesting that the Tenants' circumstances have actually changed. The Landlords' Legal Representatives stated that given the financial hardship of the Landlords in having to pay their mortgage payments late due to the late rent payments, this would warrant a termination of the tenancy.

## ANALYSIS

10. While most of the Landlords' Legal Representatives' final submissions regarding the lack of documentary evidence to support the Tenant's position on a change of circumstances may have been warranted, they were contradictory to the Landlords' position in which they only provided oral testimony of the financial hardship faced from the Tenants failure to pay rent on the day it is due.
11. Nevertheless, based on the evidence before me, I find that the Tenant has been persistently late in paying his rent. I say this based on the Tenant's admission of the late payments.
12. While the Landlords seek to terminate the tenancy, I find that it would not be unfair to grant relief from eviction. While the N8 notice of termination is not a remedial notice, the Tenant has corrected the behaviour complained of in the N8 since February 2023, thus demonstrating that he is able to pay his rent on time.
13. I find that a conditional order requiring the Tenant to pay his rent on time for a period of one year would be appropriate, given the Tenant's circumstances.
14. 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 grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.

### It is ordered that:

1. The Landlords' application for eviction of the Tenant is denied on the condition that the Tenant shall pay the Landlord the monthly rent due on or before the 1<sup>st</sup> day of the month for the period of November 2023 to October 2024.
2. If the Tenant fails to make any of the payments in accordance with paragraph 1, and by the dates required the Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the "Act") for an order terminating the tenancy and evicting the Tenant. The Landlord must make the application within 30 days of a breach of a condition set out in paragraph 1 of this order.
3. The Tenant shall pay to the Landlord \$186.00, representing the Landlord's cost for filing the application.
4. If the Tenant does not pay the Landlord the full amount owing on or before October 22, 2023, the Tenant will start to owe interest. This will be simple interest calculated from October 23, 2023 at 7.00% annually on the balance outstanding.

**October 11, 2023**

**Date Issued**

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Colin Elsby

Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor,  
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.