



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

Citation: Ontario Aboriginal Housing Support Services Corporation v Ainsworth, 2023 ONLTB 65492

Date: 2023-10-05

File Number: LTB-L-053208-22

2023 ONLTB 65492 (CanLII)

In the matter of: 5840 LOWANDA LANE
SEBRIGHT ON L0K1W0

Between: Ontario Aboriginal Housing Support Services Corporation, Infinity Property Services and an Agency of the Metis Nation of Ontario Landlord

And

Cody Ainsworth and Jaimee-lyn Lee Tenants

Ontario Aboriginal Housing Support Services Corporation, Infinity Property Services and an Agency of the Metis Nation of Ontario (the 'Landlord') applied for an order to terminate the tenancy and evict Cody Ainsworth and Jaimee-lyn Lee (the 'Tenants') because the Tenants did not pay the rent that the Tenant owes (L1 Application).

The Landlord also applied for an order to terminate the tenancy and evict the Tenant because the Tenant's behaviour or the behaviour of someone visiting or living with them had substantially interfered with the Landlord's reasonable enjoyment of the rental complex (L2 Application).

These applications were heard by videoconference on September 20, 2023 at 09:00 am.

Only the Landlord Representative Lyndsay Dubois attended the hearing.

As of 11:00 am, the Tenants were not present or represented at the hearing although properly served with notice of this hearing by the LTB.

At 11:05 am the Tenant Jaimee-lyn Lee signed into but refused to enter the hearing room and participate in the hearing. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

L1 Application

1. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Nonpayment of Rent (N4 Notice). The Tenants 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 Tenants were still in possession of the rental unit.
3. The lawful rent is \$1,200.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$39.45. This amount is calculated as follows: \$1,200.00 x 12, divided by 365 days.
5. The Tenants have paid \$140.00 to the Landlord since the application was filed.
6. The rent arrears owing to September 30, 2023 are \$19,924.00.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. There is no last month's rent deposit.

L2 Application

9. On July 22, 2022, the Landlord gave the Tenants an N5 notice of termination deemed served on July 27, 2022. The notice of termination alleges:
 - On June 9, 2022 the Landlord was informed that the Tenants failed to pay the electrical bill in accordance with the lease agreement resulting in the hydro being shut off to the rental unit effective October 21, 2021 resulting in the Landlord transferring the Hydro account to their name;
 - On June 13, 2022 it was confirmed by an occupancy check conducted by the Landlord's agent George Koci (GK) that the Tenants were still living in the rental unit;
 - On June 16, 2022 an agent of the Landlord was informed by Hydro One that a safety inspection would have to be conducted prior to reconnecting the power;

- On June 20, 2022 the Tenants were given 24 hours notice that Hydro One would need to attend the property to conduct a safety inspection on June 23, 2022 between 10:00 am and 2:00 pm, a copy of the notice was entered in evidence;
 - On June 22, 2022 the Tenant Jaimee-lyn Lee contacted the GK at 8:17 pm requesting to reschedule the inspection. GK responded that they could not as it was essential to reconnecting the power;
 - On June 23, 2023 a representative from Hydro One attended the rental unit but due to the Tenants not being present the inspection was not completed;
 - On June 27, 2022 GK sent another 24 hour notice, entered in evidence, to the Tenants advising that GK and a representative from Hydro One will be attending the property on June 30, 2022 to conduct the inspection;
 - On June 28, 2022 GK sent a letter advising the Tenants that Hydro One would be charging a fee of \$337.87 to restore the hydro and that in accordance with the lease agreement the Tenants would pay all private and public utilities. A copy of the letter and the lease were entered in evidence;
 - On June 30, 2022 GK and a representative from Hydro One attended the property and received no response from knocking on the door other than a dog aggressively barking. In the interest of safety they chose not to enter the property; and
 - In order for the Tenants to void the order, within seven days they must provide proof of an account for the utility bills being in their name, facilitate Hydro One access to the rental property to conduct the inspection and provide the \$337.87 to the Landlord for Hydro One to reconnect the electricity.
10. The Tenants did not provide proof of an account for utilities within seven days after receiving the N5 notice of termination. Nor did they facilitate access for the inspection nor provide the \$337.87 to the Landlord to cover the cost to reconnect the electricity. Therefore, the Tenants did not void the N5 notice of termination in accordance with section 62(3) of the *Residential Tenancies Act, 2006* (Act). The Landlord Representative submitted that the Landlord also incurred costs by assuming the Hydro One account.
12. Based on the uncontested evidence presented, I am satisfied on the balance of probabilities that the Tenants, another occupant of the rental unit or someone the Tenants permitted in the residential complex has wilfully or negligently allowed the Hydro One bill go unpaid. This conduct has substantially interfered with the Landlord's reasonable enjoyment or lawful right, interest or privilege because it has prevented the Landlord from maintaining the rental unit and forced him to incur additional cost that they would not normally have too.

13. The Landlord is also seeking compensation for the unpaid Hydro One bills in the amount of \$3,741.87 This claim is supported by receipts entered in evidence.
14. This claim was brought forth under section 88.2(1)(a) of the Act which states:

88.2 (1) A landlord may apply to the Board for an order requiring a tenant or former tenant to pay costs described in subsection (4) if,

(a) while the tenant or former tenant is or was in possession of the rental unit, the tenant or former tenant failed to pay utility costs that they were required to pay under the terms of the tenancy agreement.

15. Based on the uncontested testimony and evidence submitted I am satisfied on the balance of probabilities that the costs incurred by the Landlord are reasonable and that Tenants are responsible for paying the electrical bill in accordance with the lease agreement.

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.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated and the Tenants must vacate the rental unit by October 16, 2023 .
2. The Tenants shall pay to the Landlord \$23,440.87 which includes:
 - \$19,699.00 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 rent arrears owing; and
 - \$3,741.00 incurred by the Landlord for the unpaid utility bills that the Tenants were required to pay in accordance with the lease agreement..
3. The Tenant shall also pay the Landlord compensation of \$39.45 per day for the use of the unit starting September 21, 2023 until the date the Tenant moves out of the unit.

4. If the Tenant does not pay the Landlord the full amount owing on or before October 16, 2023, the Tenant will start to owe interest. This will be simple interest calculated from October 17, 2023 at 6.00% annually on the balance outstanding.
5. If the unit is not vacated on or before October 16, 2023, then starting October 17, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
6. 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 October 17, 2023.

October 5, 2023

Date Issued

Kelly Delaney

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 April 17, 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 if the tenancy is terminated

Rent Owing To Hearing Date	\$19,653.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$140.00
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	- \$0.00
Less the amount of the interest on the last month's rent deposit	- \$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 amount owing to the Landlord	\$19,699.00

Plus daily compensation owing for each day of occupation starting September 21, 2023	\$39.45 (per day)
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