



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

Citation: TORONTO COMMUNITY HOUSING CORP v Chaffey, 2023 ONLTB 63177

Date: 2023-09-27

File Number: LTB-L-015485-23

In the matter of: 104 EMPRINGHAM DR
Toronto ON M1B3Z5

Between: TORONTO COMMUNITY HOUSING CORP Landlord

And

Chivon Chaffey Tenant

TORONTO COMMUNITY HOUSING CORP (the 'Landlord') applied for an order to terminate the tenancy and evict Chivon Chaffey (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on September 11, 2023 at 1:00 pm.

The Landlord Representative Dale Maingot and the Tenant attended the hearing.

Preliminary Issues:

1. At the outset of the hearing the Tenant requested an adjournment claiming that she had just received notice of the hearing and the Landlord's disclosure a few days prior and required time to prepare a response.
2. Landlord Representative submitted that the matter had been ongoing since December 2021 and that this was just another delay tactic on part of the Tenant. He also submitted that the Tenant would have received the same Notice of Hearing as the Landlord did on May 9, 2023. As to the issue of disclosure the Landlord Representative referred to the Certificate of Service (COS) entered in evidence that clearly showed the Tenant having been given notice of the issue of non-payment of rent in December 2021.

3. Canvassing the Tenant, she confirmed her mailing address was the same as that of the Notice of Hearing (NOH) as was the address on the COS for the notice of non payment of rent but reiterated that she never received either.
4. Given circumstances before me I was satisfied on the balance of probabilities that the Tenant was properly provided with the NOH and had had ample time to prepare a response. Accordingly, denied the request for adjournment directed the matter would proceed.

Determinations:

5. 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.
6. As of the hearing date, the Tenant was still in possession of the rental unit.
7. The lawful rent is \$772.00. It is due on the 1st day of each month.
8. Based on the Monthly rent, the daily rent/compensation is \$25.38. This amount is calculated as follows: \$772.00 x 12, divided by 365 days.
9. The Tenant has not made any payments since the application was filed.
10. The rent arrears owing to September 30, 2023 are \$13,192.00.
11. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
12. There is no last month's rent deposit.
13. The Tenant testified that she disagreed with the amount of arears owing, stating that she lived in a Rent Geared to Income unit and that she had been overcharged for several months, claiming that her rent had never been adjusted to account for her unemployment.
14. In response the Landlord Representative submitted that determinations regarding the application of subsidies was outside the jurisdiction of the Board in accordance with section 203.1 of the Residential Tenancies Act, 2006 (the "Act"). He further submitted that the Tenant had failed to inform the Landlord of the change in her circumstance and regardless the Tenant had continued to pay any rent since the application had been filed.
15. 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 October 31, 2023 pursuant to subsection 83(1)(b) of the Act.
16. Specifically, I am satisfied that a brief postponement to afford the Tenant the opportunity to rectify any issues with the application of their subsidies and or secure financial aid is warranted while not overtly prejudicing the Landlord.

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:**
 - \$13,378.00 if the payment is made on or before September 30, 2023. See Schedule 1 for the calculation of the amount owing.
- OR**
- \$14,150.00 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 \$12,885.18. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$25.38 per day for the use of the unit starting September 12, 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 8, 2023, the Tenant will start to owe interest. This will be simple interest calculated from October 9, 2023 at 6.00% 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.

September 27, 2023

Date Issued
Delaney

Kelly

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 September 30, 2023

Rent Owing To September 30, 2023	\$13,192.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
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	\$13,378.00

B. 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	\$13,964.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
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	\$14,150.00

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

Rent Owing To Hearing Date	\$12,699.18
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Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
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	- \$
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	\$12,885.18
Plus daily compensation owing for each day of occupation starting September 12, 2023	\$25.38 (per day)