



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

**Citation:** Sidhu v Khokhar, 2023 ONLTB 60137

**Date:** 2023-09-07

**File Number:** LTB-L-068638-22

**In the matter of:** 307, 200 LAGERFELD DR BRAMPTON  
ON L7A5G5

**Between:** Mandeep Sidhu and Jaskarn Sidhu Landlords

**And**

Eric Khokhar Tenant

Mandeep Sidhu and Jaskarn Sidhu (the 'Landlords') applied for an order to terminate the tenancy and evict Eric Khokhar (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on May 24 and May 29, 2023.

The Landlords and the Tenant attended the hearing on both dates.

### **Determinations:**

#### Preliminary Issue:

##### *Adjournment request*

1. The matter was heard in part on May 24, 2023, and then a brief adjournment was granted to May 29, 2023 because the Tenant stated that he needed time to access his banking records for payments in dispute prior to the service of the N4 Notice in November 2022.
2. At the hearing, the Tenant requested a further adjournment to access his banking records, as he stated that the account that he had used was closed and that he required 2 to 4 weeks to access the archived records through the bank.
3. The Landlords opposed the adjournment request and testified that they have been waiting to have the application heard since November 2022, are experiencing financial hardship as the Tenant has not paid any rent since September 2022, before the N4 was served, and

they have other financial commitments including the carrying costs of the rental property. The Landlords also stated that the Tenant has not been paying utilities as he is required to do under the tenancy agreement (although not part of this application), and they are also required to make these payments. The Tenant has already been provided with a short adjournment to obtain the banking records.

4. Under Section 183 of the *Residential Tenancies Act, 2006* (Act), the Board must "adopt the most expeditious method of determining the questions arising in a proceeding that affords to all persons directly affected by the proceeding an adequate opportunity to know the issues and to be heard on the matter."
5. Pursuant to Section 21 of the *Statutory Powers Procedure Act, R.S.O. 1990* (SPPA), an adjournment will only be granted by the Board if it is required to permit an adequate hearing to be held.
6. The Board's *Guideline 1: Adjourning and Rescheduling Hearings*, while not binding upon me, states that parties should assume that the hearing will proceed on the date stated in the Notice of Hearing, including being prepared to present their evidence and make their submissions.
7. I denied the adjournment request for the following reasons.
8. The Tenant was served with the N4 Notice on November 1, 2022, which outlined the arrears that the Landlords were claiming. He therefore had notice of the arrears being claimed for the period prior to November 2022, which he now disputes. He was served with the Notice of Hearing over 1 month prior to the initial hearing date of May 24, 2023.
9. If the Tenant wished to present evidence to dispute the Landlords' claim, he had over 6 months in which to collect it. If he had made any attempts to locate his bank records during that time, he would have become aware before May 29, 2023 (after the 5-day adjournment to permit him to locate records) that the account was closed, and that extra time was required to obtain them.
10. The Tenant has made no payments at all in 8 months since September 2022, which is causing ongoing prejudice to the Landlords. If the Tenant merely disputed the amount claimed on the N4 as he claims (August to October 2022), there is no reason that he could not have continued to pay rent to the Landlords while awaiting a hearing. It would be unfair to the Landlords to grant him more time to locate information which he did not seek in the 6 months prior to the hearing.

The application:

11. The Landlords served the Tenant with a valid Notice to End Tenancy Early for Nonpayment 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.
12. As of the hearing date, the Tenant was still in possession of the rental unit.

13. The lawful rent is \$2,200.00. It is due on the 1st day of each month.
14. Based on the Monthly rent, the daily rent/compensation is \$72.33. This amount is calculated as follows: \$2,200.00 x 12, divided by 365 days.
15. The Tenant has not made any payments since the application was filed.
16. The rent arrears owing to May 31, 2023 are \$21,450.00.
17. The Landlords incurred costs of \$186.00 for filing the application and are entitled to reimbursement of those costs.
18. There is no last month's rent deposit.
19. The Tenant stated that he had experienced difficulties with his business and was now in a better financial position. He stated that he would be able to pay the outstanding utilities (which are not the subject of this application) and \$1,000.00 per month toward the arrears, which would effectively be a payment plan over approximately 22 months.
20. The Landlords testified that they are suffering significant financial hardship as the Tenant has made no payments at all since the N4 was served. They stated that they are paying a mortgage and property taxes and assisting their daughter financially with her university tuition and cannot wait 22 months to be repaid. They further stated that the Tenant told them in October 2022 to "go to court and get an order." The arrears are considerable.
21. I find that a repayment plan with a 22-month term is not reasonable, as the Landlords have received no payments in 8 months, not even partial payments as a show of good faith. The Tenant has in effect lived for free during this time while the Landlords have continued to pay expenses.
22. There was also discussion at the hearing of a plan by which the Tenant could clear all arrears by August 31, 2023.
23. Due to the date of this order, if that was a feasible plan, the Tenant will already have voided the order. If he has not, then he has effectively benefitted from considerable delay in the eviction proceedings and to allow further delay would be unfair to the Landlords.
24. 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 Landlords 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 Landlords or to the LTB in trust:**

- \$30,436.00 if the payment is made on or before September 18, 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 September 18, 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 September 18, 2023**
  5. If the Tenant does not void the order, the Tenant shall pay to the Landlords \$21,533.57. 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 Landlords compensation of \$72.33 per day for the use of the unit starting May 30, 2023 until the date the Tenant moves out of the unit.
  7. If the Tenant does not pay the Landlords the full amount owing on or before September 18, 2023, the Tenant will start to owe interest. This will be simple interest calculated from September 19, 2023 at 6.00% annually on the balance outstanding.
  8. If the unit is not vacated on or before September 18, 2023, then starting September 19, 2023, the Landlords 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 Landlords on or after September 19, 2023.

**September 7, 2023**

**Date Issued**

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Margo den Haan

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 March 19, 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 18, 2023**

Rent Owing To September 30, 2023	\$30,250.00
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenant paid to the Landlords since the application was filed	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$30,436.00</b>

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

Rent Owing To Hearing Date	\$21,347.57
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenant paid to the Landlords since the application was filed	- \$0.00
<b>Less</b> the amount of the last month's rent deposit	- \$0.00
<b>Total amount owing to the Landlords</b>	<b>\$21,533.57</b>
Plus daily compensation owing for each day of occupation starting May 30, 2023	\$72.33 (per day)