



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

**Citation:** Collings v Bos, 2023 ONLTB 57410

**Date:** 2023-08-21

**File Number:** LTB-L-024402-23

**In the matter of:** 1, 570 MAIN ST  
BATH ON K0H1G0

**Between:** Adam Collings Landlord

**And**

Chantelle Bos Tenant

Adam Collings (the 'Landlord') applied for an order to terminate the tenancy and evict Chantelle Bos (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on July 18, 2023.

The Landlord's agent Steve Collings, the Landlord's representative Lourie Mccullough and the Tenant 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 \$1,000.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$32.88. This amount is calculated as follows: \$1,000.00 x 12, divided by 365 days.
5. The Landlord submitted that the Tenant has only paid \$2,500.00 to the Landlord since the application was filed.
6. The Tenant testified that all rent has been paid and there are no outstanding arrears.

7. The party bringing an application always carries the ultimate burden of proving their application on a balance of probabilities. However, once a landlord provides evidence that rent was not paid, the onus shifts to the Tenant to positively establish that the rent was in fact paid.
8. I am not satisfied on a balance of probabilities that the Tenant has paid all outstanding arrears. The Tenant was unable to say when and in what amount each payment was made. The Tenant was also inconsistent in her testimony regarding what method was used to make payments, either cash or e-transfer, and the alleged payment method changed throughout the hearing. The Tenant had no corroborating evidence of any payments made, for example e-transfers or records of cash withdrawals. Additionally, at no time prior to the hearing did the Tenant reach out to the Landlord to let them know that their arrears calculations were wrong and that everything had been paid off. For those reasons I do not accept the Tenant's evidence that all arrears have been paid off.
9. I find that the Tenant has paid \$2,500.00 to the Landlord since the application was filed.
10. The rent arrears owing to July 31, 2023 are \$10,230.00.
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 requested relief from eviction in the form of a repayment plan. The Tenant testified that she could pay \$500.00 towards the arrears each month. I am not satisfied that it would be fair in the circumstances to impose a repayment plan as I am not satisfied that the Tenant would abide by it. This is because the Tenant has only paid \$2,500.00 since the application was filed and there have been no significant changes in the Tenant's circumstances that support that she will now start paying.
14. The Tenant requested that the eviction be delayed by three months for the Tenant to find new living accommodations. The Tenant testified that she lives in the rental unit with her sister, their child, and her own child. However, the Landlord introduced into evidence a currently active Airbnb listing for the rental unit with recent reviews. This supports that the Tenant is not currently living in the rental unit or is at least not living there fulltime. As such, 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. I have also considered that the Landlord did try to work out a repayment arrangement with the Tenant.

**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:**

- \$11,416.00 if the payment is made on or before August 31, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

- \$12,416.00 if the payment is made on or before September 1, 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 1, 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 1, 2023.**
  5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$10,007.84. 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 \$32.88 per day for the use of the unit starting July 19, 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 September 1, 2023, the Tenant will start to owe interest. This will be simple interest calculated from September 2, 2023 at 6.00% annually on the balance outstanding.
  8. If the unit is not vacated on or before September 1, 2023, then starting September 2, 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 September 2, 2023.

**August 21, 2023**

**Date Issued**

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Amanda Kovats

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 2, 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 August 31, 2023**

Rent Owing To August 31, 2023	\$13,730.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$2,500.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$11,416.00</b>

**B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before September 1, 2023**

Rent Owing To September 30, 2023	\$14,730.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$2,500.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$12,416.00</b>

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

Rent Owing To Hearing Date	\$12,321.84
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$2,500.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount of the last month's rent deposit	- \$0.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$0.00

<b>Less</b> the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total amount owing to the Landlord</b>	<b>\$10,007.84</b>
Plus daily compensation owing for each day of occupation starting July 19, 2023	\$32.88 (per day)