



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

**Citation:** A. EUTENEIER LIMITED v Collins, 2023 ONLTB 55024

**Date:** 2023-08-11

**File Number:** LTB-L-004119-23

**In the matter of:** 4, 74 MILL ST  
GEORGETOWN ON L7G 2C9

**Between:** A. EUTENEIER LIMITED Landlord

**And**

Bailey Collins Tenant

A. EUTENEIER LIMITED (the 'Landlord') applied for an order to terminate the tenancy and evict Bailey Collins (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on June 19, 2023.

The Landlord's representative Bryan Rubin, licensed paralegal and the Tenant Bailey Collins attended the hearing.

### **Preliminary Issue:**

1. As a preliminary matter, the Tenant requested an adjournment of the proceedings citing a lack of time to prepare for the hearing, claiming the Tenant had not received the Notice of Hearing until June 16, 2023. Taking in submissions from both parties at this hearing, I determined the adjournment was not to be granted. My reasons for denying this adjournment are as follows.
2. The Landlord's representative objected to the adjournment due to the prejudice an adjournment would cause the Landlord as the arrears were sizable. The Landlord's representative further claimed the Tenant had more than enough time to prepare for a hearing which was straight forward in nature and further testified that all evidence had been disclosed in a package to the Tenants at least 7 days before the hearing. The Landlord's representative further cited a letter dated June 12, 2023, submitted into evidence which was sent to the Tenant.
3. Section 183 of the Residential Tenancies Act, 2006 (the 'Act') states that the Board shall 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 be heard on the matter.
4. I find that the Tenants received adequate notice of the hearing and had a reasonable opportunity to prepare for the hearing including speaking with Duty Counsel. I place considerable weight to the Tenant's testimony where the Tenant acknowledged he was

aware of the arrears and had received the invoice detailing the amount of arrears outstanding. Both sides were present at the hearing and the Tenant had received the Landlords' evidence 7 days before the hearing in accordance with LTB Rule of Procedure 19. I am therefore satisfied that the Tenant had an adequate opportunity to know the issues and be heard on the matter.

### 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 \$824.17. It is due on the 1<sup>st</sup> day of each month.
8. Based on the Monthly rent, the daily rent/compensation is \$27.10. This amount is calculated as follows: \$824.17 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 June 30, 2023 are \$21,843.48.
11. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
12. The Landlord collected a rent deposit of \$824.17 from the Tenant and this deposit is still being held by the Landlord. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.

### *Relief from Eviction*

13. 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.
14. The Tenant testified while he was aware of the arrears, he has been suffering from health conditions since June 2021 which has prevented him from working as a contractor and thus paying the lawful monthly rent. The Tenant further testified that he has reached out to local service providers to source income and housing assistance programs; however, has not confirmed any support to date.
15. The Landlord's representative submitted that the arrears were sizable and any delay in the eviction would be prejudicial to the Landlord as no payments have been made since the application, nor has the Tenant reached out the Landlord to communicate his circumstances or offer a repayment plan despite the Landlord's efforts to arrange same.
16. I find after considering all the circumstances that it would be unfair to grant relief from eviction. While I sympathize with Tenant with respect to the Tenant's long term health

issues, the Tenant presented no evidence that would demonstrate he would be able to repay the arrears or any evidence that would present a reasonable argument to why the eviction should be delayed or denied, including why his health condition would limit his ability to complete a housing search.

**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:**
  - \$23,677.82 if the payment is made on or before August 22, 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 August 22, 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 August 22, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$20,803.99. This amount includes 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 amount owing.
6. The Tenant shall also pay the Landlord compensation of \$27.10 per day for the use of the unit starting June 20, 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 August 22, 2023, the Tenant will start to owe interest. This will be simple interest calculated from August 23, 2023 at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before August 22, 2023, then starting August 23, 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 August 23, 2023.

**August 11, 2023**  
**Date Issued**

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 Greg Witt  
 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 February 23, 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 22, 2023**

Rent Owing To August 31, 2023	\$23,491.82
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	- \$0.00
<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>\$23,677.82</b>

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

Rent Owing To Hearing Date	\$21,534.19
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	- \$0.00
<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	- \$824.17
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$92.03
<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>\$20,803.99</b>
Plus daily compensation owing for each day of occupation starting June 20, 2023	\$27.10 (per day)