



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

Citation: New Hope Community Housing v Hershey, 2023 ONLTB 54335

Date: 2023-08-03

File Number: LTB-L-060502-22

In the matter of: 503, 301 TUCKER STREET
ARTHUR ONTARIO N0G1A0

Between: New Hope Community Housing Landlord

And

Dean Michael Hershey Tenant

New Hope Community Housing (the 'Landlord') applied for an order to terminate the tenancy and evict Dean Michael Hershey (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

New Hope Community Housing (the 'Landlord') also applied for an order to terminate the tenancy and evict Dean Michael Hershey (the 'Tenant') because the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully or negligently caused damage to the premises.

These applications were heard by videoconference on July 26, 2023.

Only the Landlord's Agent Joan Koob and the Landlord's Legal Representative Safia Lakhani attended the hearing.

As of 12:00 p.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. Since the Tenant did not attend and the Landlord was prepared to proceed, the matter proceeded by way of an uncontested hearing pursuant to section 7 of the *Statutory Powers Procedure Act*, R.S.O. 1990.

Determinations:

L1 Application

1. At the hearing the Landlord relied on oral submissions and referred to documents to support their application.
2. 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.

3. As of the hearing date, the Tenant was still in possession of the rental unit.
4. The lawful rent was \$647.00 and it increased to \$663.00 on January 1, 2023. It is due on the 1st day of each month.
5. Based on the Monthly rent, the daily rent/compensation is \$21.80. This amount is calculated as follows: \$663.00 x 12, divided by 365 days.
6. The Tenant has paid \$647.00 to the Landlord since the application was filed.
7. The rent arrears owing to July 31, 2023 are \$10,463.00.
8. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.
9. There is no last month's rent deposit.

Section 83 Considerations

10. The Landlord submitted that ongoing efforts were made to contact the Tenant to discuss a payment agreement, but the Tenant did not follow through on the discussions that did occur. I asked the Landlord if they were aware of any circumstances the Tenant may be experiencing that would make eviction unfair and they were aware of none. The Landlord did submit that the rental unit has been without electricity since May of 2023 however the Tenant is responsible for the electricity and the agreement for delivery of electrical power is between the Tenant and utility company. Since the Landlord is not responsible for the Tenant's electrical power, I did not find this amounted to a serious breach of the Landlord's obligations under section 83(3)(a) of the *Residential Tenancies Act, 2006* (the Act).
11. The Landlord sought termination of the tenancy within 11 days of this order. They are a non-profit organization and the accumulating rent arrears pose a significant financial hardship on them.
12. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including whether the Landlord attempted to negotiate a payment agreement with the Tenant. I find it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

L2 Application

13. At the hearing, the Landlord requested consent of the Board to withdraw their L2 application. Pursuant to section 200(4) of the Act, I consented to the request.

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:**

- \$11,327.00 if the payment is made on or before August 14, 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 14, 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 14, 2023**
 5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$10,567.80. 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 \$21.80 per day for the use of the unit starting July 27, 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 14, 2023, the Tenant will start to owe interest. This will be simple interest calculated from August 15, 2023 at 6.00% annually on the balance outstanding.
 8. If the unit is not vacated on or before August 14, 2023, then starting August 15, 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 15, 2023.
 10. The Landlord's L2 application is withdrawn.

August 3, 2023
Date Issued

John Cashmore
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 15, 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 14, 2023

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|--|--------------------|
| Rent Owing To August 31, 2023 | \$11,773.00 |
| Application Filing Fee | \$201.00 |
| NSF Charges | \$0.00 |
| Less the amount the Tenant paid to the Landlord since the application was filed | - \$647.00 |
| 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 | \$11,327.00 |

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

| | |
|--|----------------------|
| Rent Owing To Hearing Date | \$11,013.80 |
| Application Filing Fee | \$201.00 |
| NSF Charges | \$0.00 |
| Less the amount the Tenant paid to the Landlord since the application was filed | - \$647.00 |
| 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 | \$10,567.80 |
| Plus daily compensation owing for each day of occupation starting July 27, 2023 | \$21.80 (per day) |