



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

**Citation:** 7247177 Manitoba Ltd. v Downton, 2023 ONLTB 50237

**Date:** 2023-07-17

**File Number:** LTB-L-027972-22

**In the matter of:** 14, 900 NORTHERN AVE  
THUNDER BAY ON P7C2W4

**Between:** 7247177 Manitoba Ltd. Landlord

**And**

Brett Downton Tenant

7247177 Manitoba Ltd. (the 'Landlord') applied for an order to terminate the tenancy and evict Brett Downton (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes. The Landlord also claimed charges related to NSF cheques.

This application was re-heard by videoconference on July 7, 2023.

Only the Landlord's agent, Maygan Diana, attended the hearing.

As of 9:30 a.m., the Tenant was not present or represented at the hearing although properly served with notice by the Board. There is no record of a request to reschedule the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

### **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 continues to be \$986.70 and is due on the 1st day of each month. The Landlord's documents indicate it increased the rent from \$986.70 to \$1,011.37 effective March 1, 2023, but that amount is above the guideline. The Landlord rounded up the increase resulting in an amount above the guideline which is not permitted. As a result, the lawful monthly rent continues to be \$986.70.

4. Based on the monthly rent, the daily rent/compensation is \$32.44. This amount is calculated as follows: \$986.70 x 12, divided by 365 days.
5. The Tenant has paid \$2,000.00 to the Landlord since the application was filed.
6. The rent arrears owing to July 31, 2023 are \$19,623.90.
7. The Landlord is entitled to \$40.00 to reimburse the Landlord for administration charges the Landlord incurred as a result of two cheques given by or on behalf of the Tenant which was returned NSF.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlord collected a rent deposit of \$975.00 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.
10. Interest on the rent deposit, in the amount of \$32.67 is owing to the Tenant for the period from August 28, 2020 to July 7, 2023.
11. 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. The Landlord attempted to reach out to the Tenant more than once to see if a negotiated repayment plan could be agreed to. The Tenant stopped responding in June of 2022 which is when the last payment was made. The Landlord is unaware of any circumstances of the Tenant that would justify refusing or delaying eviction, and in the face of the Tenant's non-payment for an entire year, a repayment plan would be unreasonable and unfair to the Landlord as it would inevitably be ignored and fail. The Board's standard voidable eviction order shall issue.
12. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

**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 Board in trust:**
  - \$19,849.90 if the payment is made on or before July 28, 2023. See Schedule 1 for the calculation of the amount owing.
3. The Tenant may also make a motion at the Board 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 becomes due after July 28, 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 July 28, 2023.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$18,082.61. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application and unpaid NSF charges. 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 \$32.44 per day for the use of the unit starting July 8, 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 July 28, 2023, the Tenant will start to owe interest. This will be simple interest calculated from July 29, 2023 at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before July 28, 2023, then starting July 29, 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 July 29, 2023.

**July 17, 2023**

**Date Issued**

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Ruth Carey

Vice Chair, 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 January 29, 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 July 28, 2023**

Rent Owing To July 31, 2023	\$21,623.90
Application Filing Fee	\$186.00
NSF Charges	\$40.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$2,000.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$19,849.90</b>

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

Rent and Daily Compensation Owing To Hearing Date	\$20,864.28
Application Filing Fee	\$186.00
NSF Charges	\$40.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$2,000.00
<b>Less</b> the amount of the last month's rent deposit	- \$975.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$32.67
<b>Total amount owing to the Landlord</b>	<b>\$18,082.61</b>
Plus daily compensation owing for each day of occupation starting July 8, 2023	\$32.44 (per day)

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