



Order under Section 21.2 of the
Statutory Powers Procedure Act and
the **Residential Tenancies Act, 2006**

Citation: 2502780 Ontario Inc. v Sherrard, 2023 ONLTB 49600

Date: 2023-07-17

File Number: LTB-L-065851-22-RV

In the matter of: 2-359 Hilton Avenue London,
ON N5W 2R7

Between: 2502780 Ontario Inc. Landlord

And

Debbie Sherrard Tenant

Review Order

2502780 Ontario Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Debbie Sherrard (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

The L1 application was resolved by order LTB-L-065851-22, issued on May 23, 2023. The Tenant requested a review of that order.

The review request was heard by videoconference on July 4, 2023.

The Landlord's Legal Representative Timothy Ellis and the Tenant attended the hearing. The Tenant met with Tenant Duty Counsel prior to the hearing.

Determinations:

Review

1. The Landlord's Legal Representative conceded that the Tenant experienced a medical issue on May 11, 2023 when the Landlord's application was heard.
2. The Landlord's Legal Representative further conceded that as a result of the Tenant's medical issue she was not able to reasonably participate. Based on the Tenant's uncontested evidence, I was satisfied that the Tenant was unable to reasonably participate

in the May 11, 2023 hearing and as such, the Tenant's review is granted. As such, the parties proceeded with the hearing concerning the Landlord's original application.

Landlord's Application

3. 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.
4. As of the hearing date, the Tenant was still in possession of the rental unit.
5. The lawful rent is \$1,050.68. It is due on the 1st day of each month.
6. Based on the Monthly rent, the daily rent/compensation is \$34.54. This amount is calculated as follows: $\$1,050.68 \times 12$, divided by 365 days.
7. The Tenant has paid \$8,972.82 to the Landlord since the application was filed.
8. The rent arrears owing to July 31, 2023 are \$2,621.10.
9. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
10. There is no last month's rent deposit.

Section 83 Considerations

11. The Tenant acknowledged the arrears and testified that her rent is paid from a rent top-up program and that when the program had switched over to a new provider, the Tenant did not provide her son's income tax information and her subsidy had not been paid.
12. The Tenant was seemingly confused as to where the arrears came from and testified that she was never advised that her rent was not being paid by her top-up provider. The rest of her rent is paid by Ontario Works. The Tenant requested additional time in order to investigate the issue. As such, the Tenant will be given 30 days from the date of this order to do so.
13. 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 not be unfair to postpone the eviction until August 17, 2023 pursuant to subsection 83(1)(b) of the Act.

It is ordered that:

1. The Tenant's request to review is granted. LTB-L-065851-22 issued on May 23, 2023 is cancelled and replaced by the following;
2. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.

3. **The Tenant may void this order and continue the tenancy by paying to the Landlord:**
- \$2,807.10 if the payment is made on or before July 31, 2023. See Schedule 1 for the calculation of the amount owing.
- OR**
- \$3,857.78 if the payment is made on or before August 17, 2023. See Schedule 1 for the calculation of the amount owing.
4. 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 17, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
5. **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 17, 2023.**
6. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$1,894.58. 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.
7. The Tenant shall also pay the Landlord compensation of \$34.54 per day for the use of the unit starting July 5, 2023 until the date the Tenant moves out of the unit.
8. 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.
9. If the unit is not vacated on or before August 17, 2023, then starting August 18, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
10. 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 18, 2023.

July 17, 2023

Date Issued

Jagger Benham

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 18, 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 31, 2023

Rent Owing To July 31, 2023	\$11,593.92
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$8,972.82
Total the Tenant must pay to continue the tenancy	\$2,807.10

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before August 17, 2023

Rent Owing To August 31, 2023	\$12,644.60
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$8,972.82
Total the Tenant must pay to continue the tenancy	\$3,857.78

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

Rent Owing To Hearing Date	\$10,681.40
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$8,972.82
Total amount owing to the Landlord	\$1,894.58
Plus daily compensation owing for each day of occupation starting July 5, 2023	\$34.54 (per day)