



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

Citation: Kipling Investments v Herman-marsh, 2023 ONLTB 49111

Date: 2023-07-

07 File Number: LTB-L-
012609-23

2023 ONLTB 49111 (CanLII)

In the matter of: 207, 345 DIXON RD
ETOBICOKE ON M9R1S6

Between: Kipling Investments Landlord

And

Maureen Herman-Marsh Tenant

Kipling Investments (the 'Landlord') applied for an order to terminate the tenancy and evict Maureen Herman-Marsh (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on June 22, 2023.

The Landlord's legal representative, Stephen George, 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 \$1,742.04. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$57.27. This amount is calculated as follows: \$1,742.04 x 12, divided by 365 days.
5. The Tenant has paid \$5,050.00 to the Landlord since the application was filed.

6. The rent arrears owing to June 30, 2023 are \$9,097.12.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$1,742.04 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.
9. Interest on the rent deposit, in the amount of \$20.64 is owing to the Tenant for the period from January 1, 2023 to June 22, 2023.
10. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'). In particular, I have considered that the Tenant has lived in the rental unit since 2019 and has recently acquired a roommate. At the hearing, I conducted a detailed analysis of the Tenant's monthly income and expenses. Based on the information the Tenant provided, it appears that she has a monthly surplus of over \$1,000.00. This either means that the Tenant is not credible regarding the financial information she provided, or she has been unwilling or unable to prioritize her rent for the last several months. In either case, I am not prepared to exercise my discretion to grant the Tenant the payment plan she has requested.
11. I have also considered that the Landlord has attempted to work with the Tenant for an extended period of time. The Landlord says they have worked out payments plans, delayed payments, installments and other measure to assist the Tenant with paying the outstanding arrears. However, regardless of the Landlord's extensive efforts, the Tenant has consistently been either unable or unwilling to pay the monthly rent in full. The arrears are now quite substantial and they are continuing to grow.
12. After considering all of the circumstances, and based on the fact that this is a somewhat long-term tenancy, I find that it would not be unfair to postpone the eviction slightly until July 31, 2023 pursuant to subsection 83(1)(b) of the Act.

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:**
 - \$11,025.16 if the payment is made on or before July 31, 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 July 31, 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 31, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$7,038.34. 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 \$57.27 per day for the use of the unit starting June 23, 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 18, 2023, the Tenant will start to owe interest. This will be simple interest calculated from July 19, 2023 at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before July 31, 2023, then starting August 1, 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 1, 2023.

July 7, 2023

Date Issued

Laura Hartslief

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 1, 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	\$15,889.16
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$5,050.00
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	\$11,025.16

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

Rent Owing To Hearing Date	\$13,665.02
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$5,050.00
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	- \$1,742.04
Less the amount of the interest on the last month's rent deposit	- \$20.64
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	\$7,038.34
Plus daily compensation owing for each day of occupation starting June 23, 2023	\$57.27 (per day)