



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

**Citation:** David New v Kelly Haggerty, 2023 ONLTB 47219

**Date:** 2023-07-04

**File Number:** LTB-L-079043-22

**In the matter of:** 1 CLINTON ST  
HAMILTON ON L8L3J7

**Between:** David New Landlord

**And**

Kelly Haggerty Tenant

David New (the 'Landlord') applied for an order to terminate the tenancy and evict Kelly Haggerty (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on May 25, 2023.

The Landlord 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 \$1,435.00. It is due on the 1st day of each month.
4. The Tenant has paid \$2,788.90 to the Landlord since the application was filed.
5. The parties agreed that the rent arrears owing to May 31, 2023 are \$4,786.10.
6. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs. The parties agreed that the Tenant therefore owes the Landlord a total of \$4,972.10 for rent arrears to May 31, 2023 and costs.

7. The Landlord sought an order terminating the tenancy and evicting the Tenant. He said this is the second time rent arrears have accumulated, and that she voided the previous order and subsequently failed to pay her rent in full again.
8. The Tenant said that she has lived in her current neighbourhood for her whole life. Her family lives nearby, including her mother who lives within walking distance and who the Tenant helps since her father passed away about one year ago.

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9. The Tenant said that she had \$3,000.00 that she could pay toward the rent arrears on the day of the hearing, and an additional \$500 she could pay the following day. She then wanted to pay the remaining balance by paying \$1500.00 on the first of each month (\$1,435.00 for rent and \$65.00 for arrears) and an additional \$50.00 toward the arrears by the 15<sup>th</sup> of each month until the arrears are paid in full. She said this is the most she could commit to, but would try to repay the rent arrears faster. I find the Tenant's proposal to be reasonable, though I decided to require that the entire monthly rent arrears payment (\$115.00) be paid by the 15<sup>th</sup> of each month, and the monthly rent to be paid by the 1<sup>st</sup> day of each month.
10. 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 grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.

**It is ordered that:**

1. The Tenant shall pay to the Landlord \$4,972.10, which represents the rent arrears owing as of the hearing date to May 31, 2023 and the Landlord's costs of filing this application.
2. The Landlord's application for eviction is denied on the condition that:
  - a. If the Tenant has not paid the \$3,500.00 toward the rent arrears that she stated she could pay by May 25, 2023, then this amount shall be paid by July 31, 2023.
  - b. If the Tenant has not paid the full monthly rent for June 2023 or July 2023, then these unpaid amounts shall be paid by July 31, 2023.
  - c. The Tenant shall also make the following payments to the Landlord in respect of the remaining amount owing under paragraph 1 of this order:

Date Payment Due	Amount of Payment
August 15, 2023	\$115.00 (costs and arrears)

September 15, 2023	\$115.00 (costs and arrears)
October 15, 2023	\$115.00 (arrears)
November 15, 2023	\$115.00 (arrears)
December 15, 2023	\$115.00 (arrears)
January 15, 2024	\$115.00 (arrears)
February 15, 2024	\$115.00 (arrears)
March 15, 2024	\$115.00

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	(arrears)
April 15, 2024	\$115.00 (arrears)
May 15, 2024	\$115.00 (arrears)
June 15, 2024	\$115.00 (arrears)
July 15, 2024	\$115.00 (arrears)
August 15, 2024	\$92.10 (arrears)

3. The Tenant shall also pay to the Landlord new rent on time and in full as it comes due and owing for the period August 1, 2023 to August 31, 2024, or until the arrears are paid in full, whichever date is earliest.
4. If the Tenant fails to make any one of the payments in accordance with this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenant to the Landlord pursuant to paragraph 1 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenant, apply to the LTB within 30 days of the Tenant's breach pursuant to section 78 of the Act for an order terminating the tenancy and

evicting the Tenant and requiring that the Tenant pay any new arrears, NSF fees and related charges that became owing after May 31, 2023.

**July 4, 2023**  
**Date Issued**

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Mark Melchers  
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.