



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** Pulse Communities Inc Phase II v Michael Barclay, 2023 ONLTB 46837

**Date:** 2023-06-26

**File Number:** LTB-L-082142-22

**In the matter of:** 83, 3260 SINGLETON AVE  
LONDON ON N6L0E7

**Between:** Pulse Communities Inc Phase II c/o Trident Property Management Landlord  
**And**

Michael Barclay Tenant

Pulse Communities Inc Phase II c/o Trident Property Management (the 'Landlord') applied for an order to terminate the tenancy and evict Michael Barclay (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's agent, D. Bell, and the Tenant attended the hearing. The Landlord's witness, B. Sadler, also 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 \$2,300.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$75.62. This amount is calculated as follows: \$2,300.00 x 12, divided by 365 days.
5. The Tenant has paid \$700.00 to the Landlord since the application was filed.
6. The rent arrears owing to May 31, 2023 are \$13,037.10.
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 \$2,300.00 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.

9. Interest on the rent deposit, in the amount of \$49.62 is owing to the Tenant for the period from July 15, 2022 to May 25, 2023.
10. The Landlord is seeking a standard termination order.
11. The Tenant admits the amount of arrears owing to the Landlord. He said that he was supposed to have the internet included with his rent. He said that he has not been working for about 6 months, and he was in arrears before that because he did not have a lot of work. The Tenant said that he now has a new job with an income of about \$4-8,000.00 per week. He proposed to pay \$600.00 to \$700.00 per week, as of June 1, 2023.
12. The Tenant said that he lives with his 12 year old son, and he has very high expenses for his child's travel hockey. He said that he looked for somewhere else to live, but it is difficult to find anything comparable for the same rent.
13. The Landlord submits that the tenancy is not viable. They submit that the Tenant has made promises all through the tenancy, but he has never fulfilled any of his promises. Consequently, the Landlord has no trust at all in the Tenant's proposal.
14. I find that the tenancy is no longer viable for the reasons that follow. The tenancy is not yet one year old, and the Tenant began falling into arrears about a month or so after moving in to the rental unit. The Landlord's ledger shows that the Tenant has never paid the rent on time, and there are many months he paid nothing at all. The Tenant said that he was unemployed as of January 2023, and he had steady work until then. However, the Landlord filed the application in December 2022 when the Tenant was already over \$2,200.00 in arrears. The Tenant had no documentary evidence of any source of employment, and his proposal would pay off only about \$100.00-\$300.00 of the arrears each month, which would still take almost four years to pay off the arrears.
15. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenant, and I find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. In particular, the Tenant has not paid the rent in full and on time since the beginning of the tenancy, and he had no documentary evidence of any change in his financial situation. Therefore, I find that it is prejudicial to the Landlord for the tenancy to continue.

**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:**
  - \$15,523.10 if the payment is made on or before June 30, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

- \$17,823.10 if the payment is made on or before July 7, 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 7, 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 7, 2023.**
  5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$10,463.98. 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 \$75.62 per day for the use of the unit starting May 26, 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 7, 2023, the Tenant will start to owe interest. This will be simple interest calculated from July 8, 2023 at 6.00% annually on the balance outstanding.
  8. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
  9. If the unit is not vacated on or before July 7, 2023, then starting July 8, 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 July 8, 2023.

**June 26, 2023**  
**Date Issued**

\_\_\_\_\_  
 Nancy Morris  
 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 January 8, 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 June 30, 2023**

Rent Owing To June 30, 2023	\$16,037.10
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$700.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$15,523.10</b>

**B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before July 7, 2023**

Rent Owing To July 31, 2023	\$18,337.10
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$700.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$17,823.10</b>

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

Rent Owing To Hearing Date	\$13,327.60
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$700.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount of the last month's rent deposit	- \$2,300.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$49.62
<b>Less</b> the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00

<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total amount owing to the Landlord</b>	<b>\$10,463.98</b>
Plus daily compensation owing for each day of occupation starting May 26, 2023	\$75.62 (per day)

2023 ONLTB 46837 (CanLII)