



## **Order under Subsection 87(1) Residential Tenancies Act, 2006**

**Citation:** Sandra Louise Klimowski v Jessica McIntyre, 2023 ONLTB 42813

**Date:** 2023-06-14

**File Number:** LTB-L-000977-23

**In the matter of:** 377 THOROLD RD  
WELLAND ON L3C3W4

**Between:** Sandra Louise Klimowski Landlord

**And**

Dave McIntyre Tenant  
Jessica McIntyre

Sandra Louise Klimowski (the 'Landlord') applied for an order requiring Dave McIntyre and Jessica McIntyre (the 'Tenant') to pay the rent that the Tenant owe.

This application was heard by videoconference on May 24, 2023.

The Landlord and the Tenant, Dave McIntyre attended the hearing.

### **Preliminary Issues:**

#### *Defective N4 Notice and Amendment,*

1. At the hearing the Landlord's N4 Notice of Termination was found to be defective as it was not signed and dated and the rental periods were not in chronological order. The Board cannot issue an order for an eviction based on a defective notice of termination.
2. The Landlord requested that the application be amended from an application seeking eviction and arrears to an application for arrears only. I was satisfied that there was no prejudice to the Tenant as the N4 made it clear the Landlord was seeking arrears in addition to an eviction: see *Nejad v. Freddie*, 2016 ONSC 4358 (Div. Ct.).

### **Determinations:**

1. The Landlord served the Tenant with Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). For the reasons mentioned above, the notice was invalid. An order for arrears only will be issued.
2. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The Tenant did not pay the total rent they were required to pay for the period from November 1, 2022 to May 31, 2023.

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**Tribunals Ontario**  
Landlord and Tenant Board

**Tribunaux décisionnels Ontario**  
Commission de la location immobilière

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4. The lawful rent is \$2,150.00. It is due on the 1st day of each month.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to May 31, 2023 are \$15,050.00
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

**It is ordered that:**

1. The Tenant shall pay to the Landlord \$15,236.00. This amount includes rent arrears owing up to May 31, 2023 and the cost of the application.
2. If the Tenant does not pay the Landlord the full amount owing on or before June 25, 2023, the Tenant will start to owe interest. This will be simple interest calculated from June 26, 2023 at 6.00% annually on the balance outstanding.

**June 14, 2023**

**Date Issued**

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Camille Clyne

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.

