



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

**Citation:** Leena Sultan v Rajan Channan, 2023 ONLTB 44091

**Date:** 2023-06-13

**File Number:** LTB-L-004024-23

**In the matter of:** Upper, 70 STRANDMORE CIR WHITBY  
ON L1M0B9

**Between:** Leena Sultan Landlord

**And**

Rajan Channan Tenant

Leena Sultan (the 'Landlord') applied for an order to terminate the tenancy and evict Rajan Channan (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on June 7, 2023.

The Landlord, the Landlord's Legal Representative, Jordan Nieuwhof, 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 \$2,700.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$88.77. This amount is calculated as follows: \$2,700.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to June 30, 2023 are \$27,200.00.

7. The Landlord collected a rent deposit of \$2,700.00 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.
8. Interest on the rent deposit, in the amount of \$101.19 is owing to the Tenant for the period from June 1, 2021 to June 7, 2023.
9. 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 find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
10. The Tenant attempted to raise several maintenance issues that the Tenant could have raised in a T6 application. While subsection 82(1) of the Act allow tenants to raise any issue that could be subject to an application made by the Tenant, the Tenant did not provide the Landlord with advanced notice of his intent to raise the issues at the hearing. The Tenant did not provide a satisfactory explanation for his failure to do so. Accordingly, I declined to consider the Tenant's issues.
11. However, I did consider the Tenant's issues with respect to granting relief under subsection 83(1) and subsection 83(3) of the Act. I do not find that the Tenant proved that any outstanding maintenance issues rise to the level of a serious breach justifying mandatory refusal of eviction. The Tenant testified that that two bedrooms upstairs do not have power. The Landlord denied the Tenant's claims and says there is power to the upstairs bedroom.
12. On any application before the Board, the person who alleges any particular incident or event occurred has the burden of leading sufficient evidence to establish that it is more likely than not that their version of events is true. In this case that burden falls on the Tenant to prove that more likely than not there is no power to the two bedrooms upstairs. The Tenant failed to discharge his burden. The evidence of the parties on this issue was equal but opposite. The Tenant did not provide any evidence to corroborate his claims. I also note that there was power to the Tenant's rental unit while he was testifying by videoconference. Accordingly, I do not find that the Landlord is in serious breach of their obligation under the Act.
13. With respect to delaying the eviction, I find that it would be unfair to do so. I say this because the arrears are substantial and approaching the monetary jurisdiction of the Board. While I appreciate the Tenant's circumstances with respect to the family law litigation draining his finances, the Tenant has not made any good faith payments to the Landlord since the application was filed. The Landlord has suffered financial hardship as a result of the arrears and says she cannot afford to pay her rent and the mortgage. The Tenant also confirms that he does not have the finances to pay the ongoing rent so any delay will most certainly result in the arrears increasing and further prejudice the Landlord.

**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:**
  - \$27,200.00 if the payment is made on or before June 24, 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 June 24, 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 June 24, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$22,320.20. 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 \$88.77 per day for the use of the unit starting June 8, 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 June 24, 2023, the Tenant will start to owe interest. This will be simple interest calculated from June 25, 2023 at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before June 24, 2023, then starting June 25, 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 June 25, 2023.

**June 13, 2023**

**Date Issued**

Khalid Akram

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 December 25, 2023 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.

\*Note: When the Board directs payment-out, the Canadian Imperial Bank of Commerce will issue a cheque to the appropriate party named in this notice. The cheque will be in the amount directed plus any interest accrued up to the date of the notice

**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 24, 2023**

Rent Owing To June 30, 2023	\$27,200.00
Application Filing Fee	\$0.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
<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>\$27,200.00</b>

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

Rent Owing To Hearing Date	\$25,121.39
Application Filing Fee	\$0.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
<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	- \$2,700.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$101.19
<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>\$22,320.20</b>
Plus daily compensation owing for each day of occupation starting June 8, 2023	\$88.77 (per day)