



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

**Citation:** London & Middlesex Community Housing Inc. v Derick Balfour, 2023 ONLTB 42751

**Date:** 2023-06-09

**File Number:** LTB-L-074829-22

**In the matter of:** 807, 241 SIMCOE ST  
LONDON ON N6B3L4

**Between:** London & Middlesex Community Landlord  
Housing Inc.

**And**

Derick Balfour

Tenant

London & Middlesex Community Housing Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Derick Balfour (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on May 23, 2023.

Only the Landlord's Legal Representative, Cameron Burgess, attended the hearing.

As of 9:45 a.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

### **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 \$134.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$4.41. This amount is calculated as follows: \$134.00 x 12, divided by 365 days.

5. The Tenant has paid \$5,274.55 to the Landlord since the application was filed.
6. The rent arrears owing to May 31, 2023 are \$267.45
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

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8. The Landlord collected a rent deposit of \$129.00 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 \$1.26 is owing to the Tenant for the period from January 1, 2023 to May 23, 2023.
10. The Landlord's Legal Representative submitted that the Landlord is not seeking termination of the tenancy. He submitted the Landlord is seeking a conditional order which would include a reasonable payment plan under section 78 of the *Residential Tenancies Act, 2006* (the 'Act').
11. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of 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 \$453.45, which represents the arrears of rent (\$267.45) owing to the date of the hearing, and costs (\$186.00) for the filing of the application.
2. The Landlord's application for eviction of the Tenants is denied on the condition that:
  - a) The Tenant shall make the following payments to the Landlord in respect to the monies owing under paragraph 1 of the order:

<b>Date Payment Due</b>	<b>Amount of Payment</b>
June 15, 2023	\$75.58 (costs and arrears)
July 1, 2023	\$75.58 (costs and arrears)
August 1, 2023	\$75.58 (costs and arrears)

September 1, 2023	\$75.58 (costs and arrears)
October 1, 2023	\$75.58 (costs and arrears)
November 1, 2023	\$75.55 (costs and arrears)

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- b) The Tenant shall also pay the Landlord the lawful monthly rent for the months of July 2023 to November 2023 in full, and on the first day of each corresponding month.
3. If the Tenant fails to make any of the payments in accordance with paragraph 2 of this order, and by the dates required then:
- a) The Landlord may apply under section 78 of the Act for an order terminating the tenancy and evicting the Tenants, and for the payment of any new arrears of rent and NSF charges not already ordered under paragraph 1 of this order. The Landlord must make the application within 30 days of a breach of a condition set out in paragraph 2 of this order.
- b) The balance owing under paragraph 1 of this order shall become payable on the day following the date of default. The monies owing shall bear interest at the postjudgment interest rate determined under subsection 207(7) of the Act.

**June 9, 2023**

**Date Issued**

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Susan Priest

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.