



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

Citation: Sudahar Shanmugarajah v Ranjit Ebenezer, 2023 ONLTB 42299

Date: 2023-06-09

File Number: LTB-L-079400-22

In the matter of: 7470 Ninth line
MARKHAM ON L6B1A8

Between: Nidila Sudahar Landlords
Sudahar Shanmugarajah

And

Ranjit Ebenezer Tenant

Nidila Sudahar and Sudahar Shanmugarajah (the 'Landlords') applied for an order to terminate the tenancy and evict Ranjit Ebenezer (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 Landlords's legal representative, Bill Burd, and the Tenant's legal representative, Matthew Foghi, attended the hearing

Determinations:

Preliminary Issue

1. The Tenant was not present at the hearing, but his legal representative, 'MF', was present and requested an adjournment. For the following reasons, I denied the Tenant's request for an adjournment.
2. MF requested an adjournment because the Tenant was out of the country, in a place with a 12-hour time difference, he has "a busy schedule" and he was unable to attend the hearing. MF said he was retained three days prior to the hearing because the Board sent out the notice of hearing on May 2, 2023, and he was not prepared to proceed due to the short notice. Finally, MF requested an adjournment so that the Tenant's T1 and T2 applications could be heard at the same time as the Landlord's application at a later date.
3. The Landlord objected to the Tenant's request for an adjournment because he says MF has been representing the Tenant for several months on other files and knew, or ought to have known, about the Landlord's application and this proceeding. The Landlord also points to the many adjournments the Tenant obtained on a previous file, which he says indicates that the Tenant is intentionally delaying the hearing process. Finally, the Landlord says he has been in contact with the Tenant about this hearing over the last several weeks and there is no reason he cannot participate.

4. I denied the Tenant's request for an adjournment because the time difference and the Tenant's alleged "busy schedule" are not valid reasons to justify an adjournment. This matter was scheduled to be heard at 9:00am Eastern Standard Time and the Tenant could have made a request for accommodation to have this matter heard at the start of the hearing block. Even though no such request was made, I heard this matter at approximately 10:00am Eastern Standard Time which would have given the Tenant ample time to participate even with a 12-hour time difference. At the hearing, I also confirmed that the Tenant has internet access and, for these reasons, he should have been able to call into the video conference hearing.
5. At the hearing, after I denied the Tenant's request for an adjournment multiple times and provided detailed oral reasons, MF asked if he could call the Tenant who could then attend the hearing and explain why he requires an adjournment. I denied MF's request. The fact that the Tenant was prepared to attend the hearing, despite MF's submissions that the 12-hour time difference and his "busy schedule" were preventing him from attending, suggests to me that the Tenant did not actually require an adjournment but was instead attempting to delay the hearing proceeding.
6. I also pointed out to the Tenant's legal representative that he did not require an adjournment in order to have the Tenant's T1 and T2 applications heard together with the Landlord's application. Instead, he was free to raise those issues pursuant to section 82 of the *Residential Tenancies Act, 2006* (the 'Act'). MF understood this but said he was not prepared to proceed with those issues during the hearing.
7. I also pointed out that the outstanding arrears are quite substantial, which means granting an adjournment request would likely be prejudicial to the Landlords.
8. Finally, the Board's file indicates that MF has represented the Tenant regarding file LTB-L-046642-22 which was adjourned at least three times at the Tenant's request. This file was a Tenant's motion to set aside and the final order was issued on March 20, 2023. The Board sent out notices of hearing for the proceeding before me on March 16, 2023. This chronology suggests to me that MF was likely still retained by the Tenant because file LTB-L-046642-22 was not resolved by the time the notice of hearing was sent to the parties for the matter before me. As MF was likely the Tenant's legal representative during the entire relevant time period, the fact that he was not prepared to proceed is not a valid reason to grant an adjournment.

The Landlord's Application for Arrears

9. The Landlords 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.
10. The Tenant was in possession of the rental unit on the date the application was filed.
11. The Tenant vacated the rental unit on February 12, 2023. Rent arrears are calculated up to the date the Tenant vacated the unit.
12. The lawful rent is \$4,000.00. It was due on the 1st day of each month.
13. The Tenant has not made any payments since the application was filed.

14. The rent arrears owing to February 12, 2023, are **\$25,578.12**.
15. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
16. There is no last month's rent deposit.
17. Although MF requested that the Tenant be allowed to pay the outstanding arrears by way of a payment plan, he provided no information regarding the Tenant's circumstances which would warrant a payment plan. MF also provided no evidence or submissions to suggest what kind of payment plan he was requesting or the duration of the payment plan.
18. The fact that MF was prepared to call the Tenant to provide reasons regarding his adjournment request, but failed to call the Tenant to provide reasons regarding his request for a payment plan supports my finding outlined above that the Tenant was attempting to delay the hearing process.
19. In the absence of any evidence regarding the Tenant's circumstances or any details regarding the requested payment plan, I find that the Tenant's request must be dismissed. The Landlord is therefore entitled to an order for the outstanding arrears to be paid within the standard 11-day period.
20. This order contains all the reasons within it and no further reasons will be issued.

It is ordered that:

1. The tenancy between the Landlords and the Tenant was terminated as of February 12, 2023, the date the Tenant moved out of the rental unit
2. The Tenant shall pay to the Landlords \$25,764.12. This amount includes rent arrears owing up to the date the Tenant moved out of the rental unit and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
3. If the Tenant does not pay the Landlords the full amount owing on or before June 20, 2023, the Tenant will start to owe interest. This will be simple interest calculated from June 21, 2023, at 6.00% annually on the balance outstanding.

June 9, 2023
Date Issued

Laura Hartsliet
Member, Landlords and Tenant Board

15 Grosvenor St, 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.

Schedule 1
SUMMARY OF CALCULATIONS

A. Amount the Tenant must pay as the tenancy is terminated

Rent Owing To Move Out Date	\$25,578.12
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlords since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$0.00
Less the amount of the interest on the last month's rent deposit	- \$0.00
Less the amount the Landlords owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlords	\$25,764.12