



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

**Citation:** Kelton v Seren Joti Chatterjee, 2023 ONLTB 42217

**Date:** 2023-06-09

**File Number:** LTB-L-076569-22

**In the matter of:** Lower unit, 35 WINCHESTER BLVD  
HAMILTON ON L8T2M6

**Between:** Gitric Kelton Landlord

**And**

Seren Joti Chatterjee Tenant

Gitric Kelton (the 'Landlord') applied for an order to terminate the tenancy and evict Seren Joti Chatterjee (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

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

The Landlord's Representative Kelly Hawkes and the Tenant attended the hearing. They indicated to the moderator that they had a consent agreement. However, the Tenant also indicated to the moderator that she was at work. I called the Tenants name numerous times over approximately an hour and half and did not get a response. At 11:23a.m. the hearing proceeded with only the Landlord's evidence.

### **Determinations:**

#### **Request to Combine – Denied**

1. On March 28, 2023 the Tenant requested that the Landlord's L1 Application (LTB-L-076569-22) be combined with her Tenant's application (LTB-T-017837-23). This request was not processed by the Board prior to the hearing.
2. The Tenant's application involves an illegal entry into the rental unit.
3. The request to combine the applications is denied because the applications have no overlapping issues and hearing them separately will not result in inconsistent findings by the Board.
4. I proceeded with only the Landlord's application. The Tenant's application will be scheduled for a hearing.

#### **The L1 Application**

5. 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.

6. As of the hearing date, the Tenant was still in possession of the rental unit.
7. The lawful rent is \$1,400.00. It is due on the 1st day of each month.
8. Based on the Monthly rent, the daily rent/compensation is \$46.03. This amount is calculated as follows: \$1,400.00 x 12, divided by 365 days.
9. The Tenant has paid \$2,000.00 to the Landlord since the application was filed.
10. The rent arrears owing to May 31, 2023 are \$7,000.00.
11. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
12. The Landlord collected a rent deposit of \$1,400.00 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.
13. Interest on the rent deposit, in the amount of \$30.61 is owing to the Tenant for the period from August 30, 2021 to May 24, 2023.
14. The Landlord indicated that the consent agreement reached with the Tenant involved a termination date of June 30, 2023. As the Tenant was not present to go forward with the consent agreement the Landlord sought a standard order.
15. While the Tenant absolutely had an obligation to unmute herself and participate in the hearing, she did have an understanding that the termination date would be June 30, 2023. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including that the Landlord attempted to negotiate a repayment plan, and find that it would not be unfair to postpone the eviction until June 30, 2023 pursuant to subsection 83(1)(b) of the Act.

**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:**
  - \$8,586.00 if the payment is made on or before June 30, 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 30, 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 30, 2023.**

5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$5,460.11. 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 \$46.03 per day for the use of the unit starting May 25, 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 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.
8. If the unit is not vacated on or before June 30, 2023, then starting July 1, 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 July 1, 2023.

**June 9, 2023**  
**Date Issued**

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Amanda Kovats  
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 1, 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	\$10,400.00
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	- \$2,000.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$8,586.00</b>

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

Rent Owing To Hearing Date	\$8,704.72
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	- \$2,000.00
<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	- \$1,400.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$30.61
<b>Total amount owing to the Landlord</b>	<b>\$5,460.11</b>
Plus daily compensation owing for each day of occupation starting May 25, 2023	\$46.03 (per day)