



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

**Citation:** Barry's Construction & Insulation Ltd v Gary Mcmillan, 2023 ONLTB 41541

**Date:** 2023-06-07

**File Number:** LTB-L-017586-23

**In the matter of:** 1581 6TH AVE E  
OWEN SOUND ON N4K2V5

**Between:** Barry's Construction & Insulation Ltd Landlord

**And**

Gary Mcmillan Tenant

Barry's Construction & Insulation Ltd (the 'Landlord') applied for an order to terminate the tenancy and evict Gary Mcmillan (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on May 25, 2023.

Only the Landlord's Agent Andy Timmerman attended the hearing.

As of 2:40 p.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. Since the Tenant did not attend and the Landlord was prepared to proceed, the matter proceeded by way of an uncontested hearing pursuant to section 7 of the *Statutory Powers Procedure Act*, R.S.O. 1990.

### **Determinations:**

1. As of the hearing date, the Tenant is still in possession of the rental unit.
2. Since the filing of the application, the Tenant has paid all the arrears owing under the tenancy agreement up to May 31, 2023. Therefore, the Landlord's application for eviction is denied.
3. The Landlord incurred costs of \$186.00 for filing the application and is seeking reimbursement of those costs. Rule 23.1 of the Rules of Procedure permit the Board to award the cost of filing an application against the respondent. Although the Landlord's application was denied, it was required to obtain prompt payment of rent and arrears from the Tenant. For this reason, I am awarding the costs with respect to the filing fee.

**It is ordered that:**

1. The Tenant shall pay to the Landlord \$186.00. This amount represents the cost of filing the application.

Order Page: 1 of 2

**File Number:** LTB-L-017586-23

2. If the Tenant does not pay the Landlord the full amount owing on or before June 18, 2023, the Tenant will start to owe interest. This will be simple interest calculated from June 19, 2023 at 6.00% annually on the balance outstanding.

**June 7, 2023**

**Date Issued**

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John Cashmore

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.

