



Order under Section 69 Residential Tenancies Act, 2006

Citation: Ian Mahler v Amanda Gray, 2023 ONLTB 40665

Date: 2023-06-06

File Number: LTB-L-075084-22

In the matter of: 708 QUEEN ST S
KITCHENER ON N2M1A3

Between: Ian Mahler and Nicole Mahler Landlord

And

Amanda Gray Tenant

Ian Mahler and Nicole Mahler (the 'Landlord') applied for an order to terminate the tenancy and evict Amanda Gray (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, Nicole Mahler and the Landlord's legal representative Eric Schroeder attended the hearing.

As of 1:44 PM, 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.

The Landlord's legal representative made a request to have the application amended to remove Wilfred St. Cyr as a party as he is deceased. The application is amended as requested.

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. The Landlord's legal representative advised the Board of an Exparte Order under L016341-23. The Board issued under file number L-016341-23 an Order dated April 24, 2023

terminating the tenancy as of April 1st, 2023. The Tenant was ordered to vacate the rental unit on or before May 5, 2023.

3. Since the tenancy is terminated the issue of eviction in this application is moot and will proceed on arrears only.
4. As of the hearing date, the Tenant was still in possession of the rental unit.
5. The lawful rent is \$1,814.50. It is due on the 1st day of each month.

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6. Based on the Monthly rent, the daily rent/compensation is \$59.65. This amount is calculated as follows: \$1,814.50 x 12, divided by 365 days.
7. The Tenant has paid \$1,400.00 to the Landlord since the application was filed.
8. The rent arrears owing to May 23, 2023 are \$9,320.95
9. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
10. The Landlord collected a rent deposit of \$1,700.00 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.
11. Interest on the rent deposit, in the amount of \$139.26 is owing to the Tenant for the period from December 1, 2017 to May 23, 2023.

It is ordered that:

1. The Tenant shall pay the Landlord \$7,667.69 between the Landlord and the Tenant is terminated unless the Tenant voids this order.
2. The Tenant shall also pay the Landlord compensation of \$59.65 per day for the use of the unit starting May 24, 2023 until the date the Tenant moves out of the unit.
3. If the Tenant does not pay the Landlord the full amount owing on or before June 10, 2023, the Tenant will start to owe interest. This will be simple interest calculated from June 11, 2023 at 6.00% annually on the balance outstanding.
4. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.

May 30, 2023

Nicole Huneault

Date Issued

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 11, 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

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Schedule 1 SUMMARY OF CALCULATIONS

A. Amount the Tenant must pay

Rent Owing To Hearing Date	\$10,720.95
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$1,400.00
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	- \$1,700.00
Less the amount of the interest on the last month's rent deposit	- \$139.26
Total amount owing to the Landlord	\$7,667.69
Plus daily compensation owing for each day of occupation starting May 24, 2023	\$59.65 (per day)