



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

Citation: Ann Harbour Estates Ltd. v Brad Smith, 2023 ONLTB 40351

Date: 2023-05-30

File Number: LTB-L-070804-22

In the matter of: 201, 631 LIVERPOOL RD
PICKERING ON L1W1R1

Between: Ann Harbour Estates Ltd. Landlord

And

Brad Smith Tenant

Ann Harbour Estates Ltd. (the 'Landlord') applied for an order to terminate the tenancy and evict Brad Smith (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on May 9, 2023.

The Landlord attended the hearing. The Landlord was represented by Angelos Spingos.

As of 2:56 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. As a result, the hearing proceeded with only the Landlord's evidence.

PRELIMINARY MATTERS

1. At the beginning of the hearing, I raised a preliminary issue regarding the outstanding arrears claimed by the Landlord valued at \$37,123.78, which is above the Board's monetary jurisdiction of \$35,000.00 in accordance with section 207(1) of the *Residential Tenancies Act, 2006* (the 'Act'). The Landlord's legal representative informed the Board that the Landlord was willing to waive entitlement to the amount of arrears exceeding the monetary limit pursuant to s. 207(3) of the Act.

Determinations:

2. 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.

3. The Tenant was in possession of the rental unit on the date the application was filed.
4. The Tenant vacated the rental unit on April 24, 2023. Rent arrears are calculated up to the date the Tenant vacated the unit.
5. The lawful rent is \$4,000.00. It was due on the 1st day of each month.

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6. The Tenant has paid \$1,298.48 to the Landlord since the application was filed.
7. The rent arrears owing to April 24, 2023 are \$49,631.05.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlord collected a rent deposit of \$3,700.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit is applied to the arrears of rent because the tenancy terminated.
10. Interest on the rent deposit, in the amount of \$185.61 is owing to the Tenant for the period from September 1, 2019 to April 24, 2023.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of April 24, 2023, the date the Tenant moved out of the rental unit
2. The Tenant shall pay to the Landlord \$35,186.00 (limited by the monetary jurisdiction of the Board). 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. The rent deposit and interest the Landlord owes on the rent deposit is deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.
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.

May 30, 2023
Date Issued

Emile Ramlochan

Member, Landlord 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.

*Note: When the LTB 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.

**Schedule 1
SUMMARY OF CALCULATIONS**

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

Rent Owing To Move Out Date	\$50,929.53
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$1,298.48
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	- \$3,700.00
Less the amount of the interest on the last month's rent deposit	- \$185.61
Less the amount the Landlord 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 Landlord (Limited to the Board's monetary jurisdiction)	\$35,186.00