



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

**Citation:** Ketan Patel v Shailee Chamberlain, 2023 ONLTB 39258

**Date:** 2023-05-26

**File Number:** LTB-L-003950-23

**In the matter of:** Basement, 6 Pamela Court Etobicoke  
Ontario M9V2C3

**Between:** Ketan Patel Landlord  
Leenabahen Patel

**And**

Ramandeep Baath Tenant  
Shailee Chamberlain

Ketan Patel and Leenabahen Patel (the 'Landlord') applied for an order to terminate the tenancy and evict Ramandeep Baath and Shailee Chamberlain (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

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

The Landlord's representative R. Bent, the Landlord's agent T. Patel and the Tenant Shailee Chamberlain (SC) attended the hearing. The Tenant, SC, acknowledged having the authority to speak on behalf of the other Tenant.

**Determinations:**

**Adjournment Request**

1. When this matter was called to be heard, the Tenant requested an adjournment, on the basis the Tenant would like to seek legal representation. The Tenant, admittedly, did not take any steps to retain legal representation prior to the hearing. The application was filed in October 2022 and the Form N4 was served in September 2022. The Landlord noted there are significant arrears owing and thus, any delay would be prejudicial to the

Landlord. Upon hearing the parties' submissions, including the lack of steps taken by the Tenant to secure legal representation prior to the hearing, the Adjournment request was denied.

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. As of the hearing date, the Tenant was still in possession of the rental unit.
4. The lawful rent is \$1,200.00. It is due on the 1st day of each month.
5. Based on the Monthly rent, the daily rent/compensation is \$39.45. This amount is calculated as follows: \$1,200.00 x 12, divided by 365 days.
6. The Tenant has not made any payments since the application was filed.
7. The rent arrears owing to April 30, 2023 are \$10,800.00.
8. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlord collected a rent deposit of \$1,200.00 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.
10. Interest on the rent deposit, in the amount of \$23.85 is owing to the Tenant for the period from December 31, 2021 to April 24, 2023.

### Section 83

11. Section 83 requires that I consider all the circumstances, including the Tenant's and the Landlord's situations to determine if it would be appropriate to grant section 83 relief from eviction.
12. There are no children living in the rental unit and the Tenant indicated the Tenants are actively looking to move and will be moving out of the rental unit on or before June 1, 2023.
13. The Tenants did not serve or file any section 82 claims in advance of the hearing. At the hearing, the Tenant raised certain maintenance issues under section 83, including the lack of internet Wi-Fi, Air conditioning, and presence of mould. Although not a requirement in proving such allegations, there was very little documentary evidence produced to substantiate the Tenant's allegations. In response, the Landlord indicated that within 2-3 days of being notified of the issue of black mould in September 2022, a professional was

engaged, and the issue immediately remedied. The Landlord indicated they were not notified of any other maintenance issues since that time. After hearing the evidence from both parties, I find there is insufficient evidence before me to determine the Landlords are in serious breach of their obligations under the lease agreement or the Act.

14. The Landlord seeks immediate eviction, noting the arrears are substantial and that there has been no rent paid since August 2022. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the Tenant's submission that they will be moving out of the rental unit for June 1, 2023, the Tenant's personal and financial circumstances, and balanced this with any potential prejudice to the Landlord. I find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) 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:**
  - \$12,201.00 if the payment is made on or before May 31, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

  - \$13,401.00 if the payment is made on or before June 6, 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 6, 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 6, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$9,523.95. 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 \$39.45 per day for the use of the unit starting April 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 6, 2023, the Tenant will start to owe interest. This will be simple interest calculated from June 7, 2023 at 6.00% annually on the balance outstanding.
8. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
9. If the unit is not vacated on or before June 6, 2023, then starting June 7, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
10. 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 June 7, 2023.

**May 26, 2023**

**Date Issued**

Peter Nicholson

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 December 7, 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

**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 May 31, 2023**

Rent Owing To May 31, 2023	\$12,000.00
Application Filing Fee	\$201.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$12,201.00</b>

**B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before June 6, 2023**

Rent Owing To June 30, 2023	\$13,200.00
Application Filing Fee	\$201.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$13,401.00</b>

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

Rent Owing To Hearing Date	\$10,546.80
Application Filing Fee	\$201.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
<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	- \$1,200.00

<b>Less</b> the amount of the interest on the last month's rent deposit	- \$23.85
<b>Less</b> the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total amount owing to the Landlord</b>	<b>\$9,523.95</b>
Plus daily compensation owing for each day of occupation starting April 25, 2023	\$39.45 (per day)