



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

**Citation:** Patrick Bart v Carol O'Keefe, 2023 ONLTB 39716

**Date:** 2023-05-25

**File Number:** LTB-L-069417-22

**In the matter of:** Lower, 561 JANETTE AVE WINDSOR  
ON N9A4Z6

**Between:** Patrick Bart Landlord

**And**

Carol O'Keefe Tenant

Patrick Bart (the 'Landlord') applied for an order to terminate the tenancy and evict Carol O'Keefe (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on May 10, 2023.

Only the Landlord's legal representative, John Kulikowsky ('JK'), attended the hearing.

As of 2:01 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.

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 Tenant was in possession of the rental unit on the date the application was filed.
3. The Tenant vacated the rental unit on February 28, 2023. JK stated that Landlord knows the Tenant vacated on this date because an upstairs neighbour advised him that the Tenant moved out. The Landlord inspected the rental unit, found it empty, and recovered possession.
4. JK argued that rent arrears should be ordered to the end of May 2023 because the Tenant did not provide notice that she was vacating. Section 88 of the Act addresses arrears of rent where a tenant abandons a rental unit. This section sets out rules for determining the amount of arrears owed where a tenant vacates without giving notice, there was no

agreement to end the tenancy, and “the landlord has not given a notice to terminate the tenancy”. In this case, the Landlord did give a notice of termination (the N4 notice). Rent arrears are calculated up to the date the Tenant vacated the unit

5. The lawful rent was \$1,300.00. It was due on the 1st day of each month.

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6. The Tenant has not made any payments since the application was filed.

7. The rent arrears owing to February 28, 2023 are \$8,300.00.

8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

9. There is no last month's rent deposit.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of February 28, 2023, the date the Tenant moved out of the rental unit
2. The Tenant shall pay to the Landlord \$8,486.00. 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. 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 5, 2023, the Tenant will start to owe interest. This will be simple interest calculated from June 6, 2023 at 6.00% annually on the balance outstanding.

**May 25, 2023**

**Date Issued**

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Mark Melchers

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.

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**Schedule 1**

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## SUMMARY OF CALCULATIONS

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

<b>Rent Owing To Move Out Date</b>	<b>\$8,300.00</b>
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
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	- \$0.00
Less the amount of the interest on the last month's rent deposit	- \$0.00
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
<b>Total amount owing to the Landlord</b>	<b>\$8,486.00</b>