



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

Citation: Always at Home Ltd v Rebecca Whatman, 2023 ONLTB 38086

Date: 2023-05-19

File Number: LTB-L-063260-22

In the matter of: 3, 196 PARK ROAD NORTH OSHAWA
ON L1J4L8

Between: Always at Home Ltd Landlord

And

Rebecca Whatman Tenant

Always at Home Ltd (the 'Landlord') applied for an order to terminate the tenancy and evict Rebecca Whatman (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on May 8, 2023. The Landlord's Representative Cindy Ricketts and the Tenant attended the hearing

Determinations:

Preliminary Matter:

1. Prior to the commencement of the hearing, the Tenant requested that this matter be adjourned as she sought more time to obtain information as the Tenant states the amount of rent being paid by her is actually different than what is indicated in the lease.
2. The Landlord's Representative opposed any adjournment of this matter due to the seriousness of the matter and due to the substantial amount of arrears. The Landlord's Representative stated that the Landlord is her company and she has waited 7 months to have her hearing and is quite stressed. The Landlord's Representative stated that the Tenant has also had 7 months to put together any evidence she may wishes to present and the Landlord has provided all documents to the Tenant.
3. Having considered the reason for the adjournment request, the position of the parties, the issues in the applications, the history of the proceeding and any prejudice that may result from granting or denying the request, the adjournment was denied.
4. 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.

5. The Tenant states that she vacated the rental unit on October 26, 2022 however the Tenant never contacted the Landlord or dropped off keys to the rental unit. The Landlord states that she filed the L1 application with the Board in the morning hours of October 31, 2022 and subsequently emailed the Tenant later that day to advise her of same. In response to the Landlord's e-mail communication, the Tenant then indicated that she had vacated the rental unit. The Landlord's position, which I also accept, is that the Landlord had no idea that the Tenant had vacated the rental unit until the email communication of October 31, 2022. I am therefore satisfied that the Tenant was in possession of the rental unit on the date the application was filed.
6. The Tenant vacated the rental unit on October 31, 2022. Rent arrears are calculated up to the date the Tenant vacated the unit.
7. While the Landlord submitted rent on the lease was indicated to be \$1,090.00 per month, the Tenant started to pay a lesser amount of \$1,062.00 per month and the Landlord accepted and agreed to that amount. I am satisfied that the lawful rent is \$1,062.00. It was due on the 1st day of each month.
8. The Tenant has not made any payments since the application was filed.
9. The rent arrears owing to October 31, 2022 are \$6,372.00. The Tenant initially disputed this amount, claiming that she paid rent to the Landlord via e-transfer but had no proof of making those payments. The Tenant then stated that she paid some rent to the Landlord and owes some rent to the Landlord as the Landlord had not deposited the e-transfers sent by the Tenant.
10. Later in the hearing, the Tenant did acknowledge that she owes the Landlord \$5,468.00 which is the rent arrears being claimed, minus the rent deposit the Landlord still holds and plus the filing fee for this application.
11. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
12. The Landlord collected a rent deposit of \$1,090.00 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.
13. Interest on the rent deposit, in the amount of \$10.89 is owing to the Tenant for the period from January 1, 2022 to October 31, 2022.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of October 31, 2022, the date the Tenant moved out of the rental unit.
2. The Tenant shall pay to the Landlord \$5,457.11. 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.

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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 May 30, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 31, 2023 at 6.00% annually on the balance outstanding.

May 19, 2023

Date Issued

Heather Chapple

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.

2023 ONL TB 38086 (CanLII)

**Schedule 1
SUMMARY OF CALCULATIONS**

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

Rent Owing To Move Out Date	\$6,372.00
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	- \$1,090.00
Less the amount of the interest on the last month's rent deposit	- \$10.89
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	\$5,457.11