



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

Citation: Tayebitafreshi Kambiz v Adam Brown, 2023 ONLTB 37161

Date: 2023-05-16

File Number: LTB-L-028644-22

In the matter of: BASEMENT, 47 CHERRY BUSH RD Maple
ON L6A0R8

Between: Firoozeh Tangestanian Landlords
Tayebitafreshi Kambiz

And

Adam Brown Tenant

Firoozeh Tangestanian and Tayebitafreshi Kambiz (the 'Landlords') applied for an order to terminate the tenancy and evict Adam Brown (the 'Tenant') because the Tenant has been persistently late in paying the Tenant's rent. The Landlords also claimed compensation for each day the Tenant remained in the unit after the termination date (the 'L2 application').

The Landlords also applied for an order to terminate the tenancy and evict the Tenant because the Tenant has not paid the rent the Tenant owes (the 'L1 application').

This application was heard by videoconference on May 4, 2023. Only the second-named Landlord above, and the Landlords' representative, Kamand Khan, attended the hearing which was held at approximately 9:50 a.m.

The Tenant was not present or represented although properly served with notice of hearing by the Board. There was no record of a request to reschedule. As a result, the hearing proceeded with only the Landlords' evidence. However, after the hearing was concluded, the Tenant dialled into the hearing environment at about 11 a.m. The Landlord's representative was still in the hearing room observing so I asked her to speak to the Tenant, but it appears she disconnected before doing so.

Determinations:

1. As I explained at the hearing, the Landlords' L1 application was discontinued in June of

2022 pursuant to s. 74(2) of the *Residential Tenancies Act, 2006* (the 'Act') because the Tenant paid to the Landlords all of the rent arrears owing as of the date of payment plus the filing fee for this application. So the L1 application is dismissed as discontinued.

2. With respect to the L2 application, the Tenant has been persistently late paying the rent. Since November of 2021 rent has never been paid on time and in full.
3. On May 7, 2022 the Landlord served the Tenant with valid Notice of Termination for persistent late payment of rent in Form N8. The date of termination on the notice is September 30, 2022 which is the end date of the fixed term tenancy agreement between the parties. The tenancy is now a month-to-month tenancy. Rent is due on the 1st day of each month. Effective October 1, 2022 the lawful monthly rent increased to \$1,771.00.
4. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act, and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The history of late payment here is egregious. The Tenant seems unable or unwilling to pay rent on time and in full. The Landlords are unaware of any circumstances of the Tenant that would justify relief.
5. The L2 application seeks daily compensation. Daily compensation is owing for the period commencing October 1, 2022. For the period October 1, 2022 to May 4, 2023 I calculate daily compensation as follows: (7 months X \$1,771.00/month) + 4 days x (\$1,771.00/month x 12 months ÷ 365 days/month) = \$12,629.90.
6. The Landlords collected a rent deposit of \$1,750.00 on October 1, 2021 and this deposit is still being held by the Landlords. Interest is owing on the deposit for the period ending September 30, 2022 in the amount of \$21.00.

It is ordered that:

1. The tenancy between the Landlords and the Tenant terminated effective September 30, 2022 pursuant to the Landlords' N8 Notice of Termination for persistent late payment of rent. The Tenant must move out of the rental unit on or before May 27, 2023.
2. If the unit is not vacated on or before May 27, 2023, then starting May 28, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. 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 May 28, 2023.
4. The Tenant shall pay to the Landlords \$10,858.90, which represents compensation for the use of the unit from October 1, 2022 to May 4, 2023, less the rent deposit and interest the Landlord owes on the rent deposit.
5. The Tenant shall also pay the Landlords compensation of \$58.22 per day for the use of the unit starting May 5, 2023 until the date the Tenant moves out of the unit.

6. If the Tenant does not pay the Landlords the full amount owing on or before May 27, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 28, 2023 at 6.00% annually on the balance outstanding.

May 16, 2023

Date Issued

Ruth Carey

Vice Chair, 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 of the Tenant expires on November 28, 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.