



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

**Citation:** 685143 Ontario Inc v Rodney McLeod, 2023 ONLTB 36494

**Date:** 2023-05-10

**File Number:** LTB-L-027727-22

**In the matter of:** 1, 43 MANITOBA ST  
BRACEBRIDGE ON P1L2A9

**Between:** 685143 Ontario Inc Landlord

**And**

Angie Forbes and Rodney McLeod Tenant

685143 Ontario Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Angie Forbes and Rodney McLeod (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes (L1 application), and the Tenant has been persistently late in paying the Tenant's rent (L2 application).

This application was heard by videoconference on May 1, 2023.

Only Debra Sheffield, for the Landlord, and the Landlord's Legal Representative, Kelly Draycott, attended the hearing.

As of 9:43 a.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:**

L1 application

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. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$2,000.00. It is due on the 1st day of each month.

4. Based on the Monthly rent, the daily rent/compensation is \$65.75. This amount is calculated as follows: \$2,000.00 x 12, divided by 365 days.
5. The Tenant has paid \$5,500.00 to the Landlord since the application was filed.
6. The rent arrears owing to May 31, 2023 are \$20,500.00.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$2,000.00 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.

#### L2 application

9. The Tenant has persistently failed to pay the rent on the date it was due. The rent is due on the 1st day of each month. The rent has been paid late 5 times in the past 5 months for the period December 2021 to March 24, 2022.
10. Due to the persistently late payment of rent, the Landlord served the Tenant a N8 Notice of Eviction on April 26, 2022; the notice had a termination date of June 30, 2022.
11. The Landlord's Legal Representative testified that the Tenant has paid the rent late 12 of the 12 months since receiving the N8 notice and is currently in arrears \$20,686.00.

#### Relief from Eviction

12. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenant and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. Although the Tenant has made payments to the Landlord, over 5 times the amount is owing than when the application was filed, and the Tenant did not attend to offer any other considerations. I find it unlikely that the Tenant would be able to clear the arrears to be given a chance to pay the lawful month rent in full and on time., therefore, the tenancy is also terminated pursuant to the L2 application. The termination date for both applications is May 21, 2023.
13. This order contains all the reasons for the decision within it. No further reasons shall be issued.

#### **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: \$20, 686.00 if the payment is made on or before May 22, 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 May 21, 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 May 21, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$16,698.57. 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 \$65.75 per day for the use of the unit starting August 19, 2022 until the date the Tenant moves out of the unit.
7. If the unit is not vacated on or before May 21, 2023, then starting May 22, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
8. 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 22, 2023.
9. **Even if the Tenant voids this order, the tenancy is terminated May 21, 2023, pursuant to the L2 application.**

**May 10, 2023**

**Date Issued**

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Diane Wade

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 November 22, 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.

**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 21, 2023**

Rent Owing To	\$26,00.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$5,500.00
<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>\$20,686.00</b>

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

Rent Owing To Hearing Date	\$24,065.75
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$5,500.00
<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	- \$2,000.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$53.18
<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>\$16,698.57</b>
Plus daily compensation owing for each day of occupation starting May 2, 2023	\$65.75 (per day)