



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

**Citation:** Tricar Group v Elizabeth McGinley, 2023 ONLTB 33831

**Date:** 2023-05-09

**File Number:** LTB-L-026953-22

**In the matter of:** 908, 71 KING ST  
LONDON ON N6A0A5

**Between:** Tricar Group Landlord

**And**

Elizabeth McGinley Tenant

Tricar Group (the 'Landlord') applied for an order to terminate the tenancy and evict Elizabeth McGinley (the 'Tenant') because the Tenant has been persistently late in paying the Tenant's rent. The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on April 19, 2023. The Landlord's representative, Daniel Abraham, attended the hearing. As of 4:41 pm, 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. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. Therefore, the tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before May 20, 2023.
2. On May 6, 2022, the Landlord served the Tenant an N8 notice of termination with a date of termination of July 31, 2022. The notice of termination alleges that the Tenant paid the rent late 5 times over the 5-month period of January 1, 2022 to May 1, 2022. I am satisfied that this N8 was properly served and complies with s. 58(2) of the Act.

3. The Landlord filed an L2 application with the Board on May 12, 2022. I am satisfied that this application complies with s. 69(1) of the Act. The Tenant was in possession of the rental unit on the day of filing, and remains in possession of the rental unit as of the day of this hearing.
4. The rent is due on the first day of each month.
5. The Landlord's representative submitted that the Tenant paid the rent late for every month over the 5-month period from January 1, 2022 to May 1, 2022. The Landlord provided rent ledgers with the late rent payments.

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6. Accordingly, I find that the Tenant has persistently failed to pay the rent on the date it was due. The rent was paid late 5 times in the 5-month period from January 1, 2022 to May 1, 2022.
7. After the notice was served, over the 11-month period of June 1, 2022 to the date of this hearing, the Landlord's representative submitted that the Tenant paid the rent late for 8 of the 11 months. The Landlord provided rent ledgers with the late rent payments.
8. Accordingly, I find that the Tenant paid the rent late 8 times over the 11-month period of June 1, 2022 to the date of this hearing.

#### Daily Compensation, Rent Deposit, and Costs

9. The Tenant was required to pay the Landlord \$11,718.24 in daily compensation for use and occupation of the rental unit for the period from August 1, 2022 to April 19, 2023.
10. Based on the monthly rent of \$1,354.00 effective March 1, 2022, the daily compensation from August 1, 2022 to February 28, 2022 is \$44.52. This amount is calculated as follows: \$1,354.00 x 12, divided by 365 days.
11. Based on the monthly rent of \$1,387.00 effective March 1, 2023, the daily compensation from March 1, 2023 is \$45.60. This amount is calculated as follows: \$1,387.00 x 12, divided by 365 days.
12. Since the termination date in the notice of termination, the Tenant paid the Landlord \$10,865.00 in rent. Therefore, as of the day of the hearing, \$853.24 in daily compensation is owed to the Landlord.
13. There is no last month's rent deposit.
14. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

## Relief from Eviction

15. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
16. The Landlord's representative submitted that the Landlord contacted the Tenant after each late rent payment by sliding a note under the unit door, and the Tenant would then pay the rent, but not on-time. The representative submitted further that the late rent payments result in extra costs for the Landlord from administration and legal fees.
17. Over the previous 16 months of this tenancy the Tenant has not paid the monthly rent ontime for 13 months. I am satisfied that these persistently late rent payments cause financial burdens for the Landlord. The Landlord's representative was not aware of any circumstances that should be considered in a determination of whether to provide the Tenant with eviction relief, nor was the Tenant or the Tenant's representative present at the hearing to provide submissions with respect to the Tenant's relief from eviction. For these reasons, it would be unfair to the Landlord to grant the Tenant with eviction relief.

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### **It is ordered that:**

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before May 20, 2023.
2. If the unit is not vacated on or before May 20, 2023, then starting May 21, 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 21, 2023.
4. The Tenant shall pay to the Landlord \$853.24, which represents compensation for the use of the unit from August 1, 2022 to April 19, 2023, less the Tenant's rent payments during this period.
5. The Tenant shall also pay the Landlord compensation of \$45.60 per day for the use of the unit starting April 20, 2023 until the date the Tenant moves out of the unit.
6. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
7. If the Tenant does not pay the Landlord the full amount owing on or before May 20, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 21, 2023 at 6.00% annually on the balance outstanding.

**May 9, 2023**  
**Date Issued**

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**Frank Ebner**  
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 of the Tenant expires on November 21, 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.

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