



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

Citation: Thomas Drake v Scott Gosselink, 2023 ONLTB 35601

Date: 2023-05-05

File Number: LTB-L-005701-22

In the matter of: 2100 LINE 47
PERTH EAST ON N0K1J0

Between: Thomas Drake Landlord

And

Scott Gosselink Tenant

Thomas Drake (the 'Landlord') applied for an order to terminate the tenancy and evict Scott Gosselink (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

A de novo hearing of this application was conducted by videoconference on April 28, 2023.

The Landlord and the Tenant attended the hearing. The Tenant declined the opportunity to speak with Tenant Duty Counsel prior to the commencement of the hearing.

Preliminary Issue:

1. The Tenant stated he wanted to identify maintenance issues as the reason he stopped paying his monthly rent and seek a rent abatement. Under section 82 of the Act, the Board shall permit the tenant to raise any issue that could be the subject of an application made by the tenant under this Act. However, the Tenant is required to provide the Landlord with advance notice of his intention to raise section 82 at the hearing. The requirement was identified in the Notice of Hearing package sent to him which included the form, "s.82 Issues a Tenant Can Raise at a Rent Arrears Hearing". He did not file any evidence with the Board. The Tenant admitted he has failed to comply with this requirement and consequently, his request to raise section 82 is denied. The Tenant reserves the right to raise these issues and will further investigate filing his own application.

Determinations:

1. The parties agreed to the following:
2. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$1,200.00. It is due on the 1st day of each month.
4. The Tenant has not made any payments since the application was filed.

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5. The rent arrears owing to April 30, 2023 are \$21,626.41.
6. The Landlord incurred costs of \$186.00 for filing the application.
7. There is no last month's rent deposit.
8. The tenancy will terminate on April 30, 2023; the Tenant has secured alternative housing.

It is ordered that:

1. The tenancy is terminated on April 30, 2023.
2. The Tenant must move out of the rental unit no later than April 30, 2023.
3. If the unit is not vacated on or before April 30, 2023, then starting May 01, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
4. 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 17, 2023.
5. The Tenant shall pay to the Landlord \$21,812.41. This amount includes rent arrears owing up to April 30, 2023 and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
6. If the Tenant does not vacate the rental unit on April 30, 2023, he shall also pay the Landlord compensation of \$39.45 per day for the use of the unit starting May 01, 2023 until the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlord the full amount owing on or before May 16, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 17, 2023 at 6.00% annually on the balance outstanding.

May 5, 2023

Date Issued

Troy Rossignol

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 expires on November 01, 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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**Schedule 1
SUMMARY OF CALCULATIONS****A. Amount the Tenant must pay as the tenancy is terminated**

Rent Owing To April 30, 2023	\$21,626.41
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 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 the Tenant must pay	\$21,812.41
Plus daily compensation owing for each day of occupation starting May 01, 2023	\$39.45 (per day)