



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

Citation: Demsey v St Arneault, 2023 ONLTB 34185

Date: 2023-05-05

File Number: LTB-L-058580-22

In the matter of: 1859 PATTINSON CRES
MISSISSAUGA ON L5J1H6

Between: Janet Wilma Demsey Landlord

And

Jake Andre St Arneault Tenant

Janet Wilma Demsey (the 'Landlord') applied for an order to terminate the tenancy and evict Jake Andre St Arneault (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on March 27, 2023.

The Landlord, the Landlord's representative Peter Balatidis and the Tenant attended the hearing.

Determinations:

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 \$3,600.00. It is due on the 7th day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$118.36. This amount is calculated as follows: \$3,600.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to April 6, 2023 are \$26,881.99.
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 \$3,600.00 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.
9. Interest on the rent deposit, in the amount of \$80.38 is owing to the Tenant for the period from May 6, 2022 to March 27, 2023.

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10. 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 not be unfair to postpone the eviction until May 26, 2023 pursuant to subsection 83(1)(b) of the Act. This extension of time accounts for both parties' evidence about their financial circumstances. The Landlord submitted that they are currently paying expenses for their current residence and expenses of the rental property, inclusive of mortgage payments. That she has been forced to use her personal savings to pay for these expenses which has resulted in being forced to sell her primary home and move to the rental property to decrease expenses and pay off resultant debt arising from the rental property. The Tenant submitted that he has experienced many personal events of recent past, including the trauma of his wife being on life support, a health issue that continues to be ongoing and that his 15 year old daughter is now residing with him as result of being kicked out of her mother's home. He submits that he has had difficulty with staying on top of his bills, supporting his daughter, working in a self-employed capacity and experiencing 25% reduction in income in the winter months. The extension of time will provide the Tenant additional time to find a new place to live. Since the Landlord is holding a rent deposit, the arrears should not increase further. At this time, a payment plan would not be appropriate based on the amount of arrears outstanding and would create further prejudice to the Landlord who is inevitably awaiting vacant possession of the rental unit to move into herself.

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:**
 - \$30,667.99 if the payment is made on or before May 6, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 - \$34,267.99 if the payment is made on or before May 26, 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 26, 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 26, 2023**
 5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$22,273.17. 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.
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6. The Tenant shall also pay the Landlord compensation of \$118.36 per day for the use of the unit starting March 28, 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.
 8. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
 9. If the unit is not vacated on or before May 26, 2023, then starting May 27, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
 10. 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 27, 2023.

2023 ONLTB 34185 (CanLI)

May 5, 2023

Date Issued

Alicia Johnson
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 27, 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.

*Note: When the Board directs payment-out, the Canadian Imperial Bank of Commerce will issue a cheque to the appropriate party named in this notice. The cheque will be in the amount directed plus any interest accrued up to the date of the notice

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 6, 2023

Rent Owing To May 6, 2023	\$30,481.99
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 to continue the tenancy	\$30,667.99

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before May 26, 2023

Rent Owing To June 6, 2023	\$34,081.99
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 to continue the tenancy	\$34,267.99

C. Amount the Tenant must pay if the tenancy is terminated

Rent Owing To Hearing Date	\$25,767.55
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	- \$3,600.00
Less the amount of the interest on the last month's rent deposit	- \$80.38
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
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Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlord	\$22,273.17
Plus daily compensation owing for each day of occupation starting March 28, 2023	\$118.36 (per day)