



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

Citation: SIREG MANAGEMENT INC. v Habimana, 2023 ONLTB 34303

Date: 2023-05-03

File Number: LTB-L-028735-22-RV

In the matter of: 103, 280 PARK ST W
WINDSOR ON N9A5T8

Between: SIREG MANAGEMENT INC. Landlord

And

Hezron Habimana Tenant

SIREG MANAGEMENT INC. (the 'Landlord') applied for an order to terminate the tenancy and evict Hezron Habimana (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes ('L1 application').

This application was resolved by order LTB-L-028735-22 issued on March 22, 2023. The Landlord's application was dismissed as abandoned because the Landlord did not attend the hearing.

On March 24, 2023, the Landlord requested a review of the order.

The request was heard by videoconference on April 17, 2023. Only the Landlord's Legal Representative, Elena Jacobs, attended the hearing.

As of 1:22 p.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:

Review Request Granted

1. For the reasons below, I am satisfied the Landlord was not reasonably able to participate in the January 18, 2023 hearing.
2. The Landlord explains that the Notice of Hearing was sent to an employee whose employment was terminated. As a result, the Notice of Hearing did not come to the attention of the Landlord.
3. The Landlord acted quickly to file their review once receiving the order.
4. Applying a broad interpretation to the phrase "not reasonably able to participate" and given the above, I find that the Landlord was not reasonably able to participate in the January 18, 2023 hearing.

5. Accordingly, the L1 application was heard again.

L1 application

6. 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.
7. The Tenant was in possession of the rental unit on the date the application was filed.
8. The Tenant vacated the rental unit on December 31, 2022. Rent arrears are calculated up to the date the Tenant vacated the unit.
9. The lawful rent is \$650.00. It was due on the 1st day of each month.
10. The Tenant has paid \$3,288.20 to the Landlord since the application was filed.
11. The rent arrears owing to December 31, 2022 are \$4,605.40.
12. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
13. The Landlord collected a rent deposit of \$650.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit is applied to the arrears of rent because the tenancy terminated.
14. Interest on the rent deposit, in the amount of \$24.94 is owing to the Tenant for the period from August 21, 2019 to December 31, 2022.

It is ordered that:

1. The request to review order LTB-L-028735-22 issued on March 22, 2023 is granted. The order is cancelled and replaced by the following.
2. The tenancy between the Landlord and the Tenant is terminated as of December 31, 2022, the date the Tenant moved out of the rental unit
3. The Tenant shall pay to the Landlord \$4,116.46. This amount includes rent arrears owing up to the date the Tenant moved out of the rental unit and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit is deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.
4. If the Tenant does not pay the Landlord the full amount owing on or before May 14, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 15, 2023 at 6.00% annually on the balance outstanding.

May 3, 2023
Date Issued

Khalid Akram

Member, Landlord and Tenant Board

15 Grosvenor St, 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.

*Note: When the LTB 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 as the tenancy is terminated

Rent Owing To Move Out Date	\$7,893.60
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$3,288.20
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	- \$650.00
Less the amount of the interest on the last month's rent deposit	- \$24.94
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 amount owing to the Landlord	\$4,116.46