



**Order under Section 87(1)
Residential Tenancies Act, 2006**

Citation: Tribute Properties Inc v Criece, 2023 ONLTB 34033

Date: 2023-05-01

File Number: LTB-L-060541-22

In the matter of: 203, 2100 Regent Street
Sudbury Ontario P3E4S9

Between: Tribute Properties Inc Landlord

And

Brian Criece Tenant

Tribute Properties Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Brian Criece (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on March 29, 2023. Only the Landlord's legal representative, L. Brace attended the hearing.

The matter was scheduled to be heard at 9:00am. I waited until 9:57am to call the matter and I canvassed the virtual hearing room, the virtual reception area, the virtual waiting room and all of the breakout rooms to confirm whether the Tenants attended the hearing. Their name did not appear in any of these areas. As such the matter proceeded only considering the Landlord's evidence.

Determinations:

1. The Landlord filed an L9 application because the Tenant did not pay the rent that the Tenant owes.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On July 14, 2022, the Tenant provided the Landlord with a notice to end the tenancy effective July 31, 2022, which the Landlord states was not in accordance with the *Residential Tenancies Act, 2006* (the 'Act'). The Tenant vacated the rental unit on July 31, 2022, in accordance with their short notice.
4. Section 88 of the Act contemplates situations such as this. It states in part:

88 (1) If a tenant abandons or vacates a rental unit without giving notice of termination in accordance with this Act and no agreement to terminate has been made or the landlord has not given notice to terminate the tenancy, a

determination of the amount of arrears of rent owing by the tenant shall be made in accordance with the following rules:

1. If the tenant vacated the rental unit after giving notice that was not in accordance with this Act, arrears of rent are owing for the period that ends on the earliest

File Number: LTB-L-060541-22

termination date that could have been specified in the notice, had the notice been given

5. The Landlord stated that they did not serve a notice of termination, did not agree to the short notice. However, stated that they were able to re-rent the unit for September 1, 2022. Therefore, the arrears are calculated to August 31, 2022, which is the earliest date the tenancy could have terminated, had the Tenant provided notice in accordance with the Act.
6. The Tenant has not made any payments since the application was filed.
7. The rent arrears and costs owing to August 31, 2022 are \$2,598.00.
8. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlord is holding a last month's rent deposit in the amount of \$1,199.00. This and any interest owed to the Tenant shall be deducted from the arrears.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of August 31, 2022, the date the Tenant moved out of the rental unit
2. The Tenant shall pay to the Landlord \$1,384.61. 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 less the last month's rent deposit and any interest owed to the Tenant. See Schedule 1 for the calculation of the amount owing.
3. If the Tenant does not pay the Landlord the full amount owing on or before May 12, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 13, 2023 at 6.00% annually on the balance outstanding.

May 1, 2023

Date Issued

Curtis Begg

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.

File Number: LTB-L-060541-22

**Schedule 1
SUMMARY OF CALCULATIONS**

A. Amount the Tenant must pay as the tenancy is terminated

Rent Owing To Move Out Date	\$2,397.00
Application Filing Fee	\$201.00
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	- \$1,199.00
Less the amount of the interest on the last month's rent deposit	- \$14.39
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	\$1,384.61

2023 ONL TB 34033 (CanLII)