



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

Citation: City Housing Hamilton Corp v Aimee Sinclair Kennedy, 2023 ONLTB 33478

Date: 2023-04-26

File Number: LTB-L-053997-22

In the matter of: 126, 77 PURNELL DR
HAMILTON ON L9C4Y4

Between: City Housing Hamilton Corp Landlord

And

Aimee Sinclair Kennedy Tenant

City Housing Hamilton Corp (the 'Landlord') applied for an order to terminate the tenancy and evict Aimee Sinclair Kennedy (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on April 13, 2023.

The Landlord's Legal Representative, Sharon Churcher, the Tenant and the Tenant's Agent, Garfield Preddie, attended the hearing.

Determinations:

1. The Tenant's adjournment request was denied for the following reasons. The adjournment was not required for an adequate hearing on the merits.
2. The reason for the request was to allow the Tenant to submit proof that she had filed paperwork with the Landlord to calculate the correct amount of rent. The rental unit is a Rent Geared to Income (RGI) unit governed by the *Housing Services Act, 2011*. The LTB

does not have jurisdiction to calculate the monthly rent of an RGI unit: See subsection 203(1)(a) of the *Residential Tenancies Act, 2006* (the 'Act').

3. Furthermore, the application alleged substantial arrears and a was filed on September 20, 2022. The Landlord would have been prejudiced by a further delay. I also considered the LTB's obligation to adopt the most expeditious method of determining the issues raised in an application that affords all parties an adequate opportunity to know the issues and be heard. In this case, the Tenant has known of the arrears since September 2022. It has been 7 months since the Landlord filed the application. In my view, this was sufficient time to submit the necessary documents to calculate the Tenant's rent.

L1 application

4. 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.
5. As of the hearing date, the Tenant was still in possession of the rental unit.
6. The lawful rent is \$1,182.00. It is due on the 1st day of each month.
7. Based on the Monthly rent, the daily rent/compensation is \$38.86. This amount is calculated as follows: \$1,182.00 x 12, divided by 365 days.
8. The Tenant has not made any payments since the application was filed.
9. The rent arrears owing to April 30, 2023 are \$17,390.00.
10. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
11. There is no last month's rent deposit.
12. I have considered all of the disclosed circumstances in accordance with subsection 83 of the *Residential Tenancies Act, 2006* (RTA), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenant, and find that it would not be unfair to postpone the eviction until May 31, 2023 pursuant to subsection 83(1)(b) of the Act.
13. The Tenant did not propose a viable plan to pay the arrears. The Landlord was not opposed to a delay to allow the Tenant to pay the arrears or move.

It 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:**
 - \$17,576.00 if the payment is made on or before April 30, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 - \$18,758.00 if the payment is made on or before May 31, 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 31, 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 31, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$16,899.18. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$38.86 per day for the use of the unit starting April 14, 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 31, 2023, the Tenant will start to owe interest. This will be simple interest calculated from June 1, 2023 at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before May 31, 2023, then starting June 1, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
9. 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 June 1, 2023.

April 26, 2023

Date Issued

Khalid Akram

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 December 1, 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 April 30, 2023

Rent Owing To April 30, 2023	\$17,390.00
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	\$17,576.00

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before May 31, 2023

Rent Owing To May 31, 2023	\$18,572.00
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	\$18,758.00

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

Rent Owing To Hearing Date	\$16,713.18
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	- \$
Less the amount of the interest on the last month's rent deposit	- \$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 amount owing to the Landlord	\$16,899.18
Plus daily compensation owing for each day of occupation starting April 14, 2023	\$38.86 (per day)