



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

Citation: Ankay Solution Inc v Jamie Arseneau, 2023 ONLTB 32250

Date: 2023-04-24

File Number: LTB-L-055192-22

In the matter of: 2, 1141 BROCK ST S
WHITBY ON L1N4M1

Between: Ankay Solution Inc Landlord

And

Jamie Arseneau Tenant

Ankay Solution Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Jamie Arseneau (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on April 11, 2023.

The Landlord's Agent, a director and officer of the Landlord, Wenkai Zhou, attended the hearing.

As of 2:28 p.m. the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB.

Determinations:

1. The Landlord sent the Tenant a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice) via email.
2. Service by email is permitted under the LTB's Rule 3.1 where the receiving party has consented in writing. The Landlord's Agent submitted a copy of the signed tenancy agreement where agreement to service by email was checked; however, the email address was not indicated. The Landlord's Agent testified the Tenant only uses one email address and submitted evidence of the Tenant responding to communication from this email address. In these circumstances, I find service of the N4 Notice valid.

3. 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.
4. As of the hearing date, the Tenant was still in possession of the rental unit.
5. The lawful rent is \$1,691.25. It is due on the 1st day of each month.
6. Based on the Monthly rent, the daily rent/compensation is \$55.60. This amount is calculated as follows: \$1,691.25 x 12, divided by 365 days.
7. The Tenant has paid \$10,109.00 to the Landlord since the application was filed.
8. The rent arrears owing to April 30, 2023 are \$3,432.99.
9. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
10. The Landlord collected a rent deposit of \$1,650.00 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.
11. Interest on the rent deposit, in the amount of \$48.03 is owing to the Tenant for the period from February 11, 2022 to April 11, 2023.
12. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act').
13. The Landlord's Agent indicated he has attempted to reach out to the Tenant but the Tenant has not replied reliably or at all. The Landlord's Agent advised the Tenant consistently pays late, has lived at the rental unit for 14 months, and that there is one minor child who resides in the rental unit.
14. While I consider all the circumstances, this is an application for arrears and not for persistent late payment. The Tenant has made significant ongoing payments towards rent, albeit the amount outstanding has increased since the application was filed. That said there is also a minor living in the rental unit. In these circumstances, I canvassed the possibility of extending the date for eviction to permit the Tenant time to preserve his tenancy and pay the amount outstanding. The Landlord's Agent was open to providing the Tenant until the end of May 2023.
15. As the Tenant did not appear and no other circumstances were presented to me, I find that it would not be unfair to postpone the eviction until May 31, 2023 pursuant to subsection 83(1)(b) of the Act.

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:**
- \$3,618.99 if the payment is made on or before April 30, 2023. See Schedule 1 for the calculation of the amount owing.
- OR**
- \$5,310.24 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 \$841.31. 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.
6. The Tenant shall also pay the Landlord compensation of \$55.60 per day for the use of the unit starting April 12, 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 5, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 6, 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 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.
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 June 1, 2023.

April 24, 2023

Date Issued

Rebecca Case

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 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.

**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	\$13,541.99
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$10,109.00
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	\$3,618.99

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

Rent Owing To May 31, 2023	\$15,233.24
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$10,109.00
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	\$5,310.24

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

Rent Owing To Hearing Date	\$12,462.34
Application Filing Fee	\$186.00
NSF Charges	\$0.00

Less the amount the Tenant paid to the Landlord since the application was filed	- \$10,109.00
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	- \$1,650.00
Less the amount of the interest on the last month's rent deposit	- \$48.03
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	\$841.31
Plus daily compensation owing for each day of occupation starting April 12, 2023	\$55.60 (per day)