



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

Citation: Brunner v Devine, 2023 ONLTB 30826

Date: 2023-04-19

File Number: LTB-L-053526-22

In the matter of: 122 EDWARD ST
LONDON ON N6C3H9

Between: Markus Brunner Landlord

And

Wayne John William Devine Tenant

Markus Brunner (the 'Landlord') applied for an order to terminate the tenancy and evict Wayne John William Devine (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on March 30, 2023.

The Landlord's Legal Representative T. Mobberley 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 \$1,500.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$49.32. This amount is calculated as follows: \$1,500.00 x 12, divided by 365 days.
5. The Tenant has paid \$5,800.00 to the Landlord since the application was filed.
6. The rent arrears owing to March 31, 2023 are \$8,700.00.
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 \$1,500.00 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 \$41.82 is owing to the Tenant for the period from February 17, 2022 to March 30, 2023.

File Number: LTB-L-053526-22

Section 83 considerations

- 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 grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.
- 11. The Landlord and the Tenant almost reached a consent for a payment plan but it was not finalised because the Tenant could not commit to paying April's rent in time but was willing to pay April's rent on or before April 15, 2023 along with additional \$500.00 towards rent arrears.
- 12. The Tenant explained that he has seasonal business of landscaping and snow removal. He said he has some clients who are committed to signing up for their spring services that is why he needed the extra time till April 15, 2023. He did not want to commit to something he cannot fulfill.
- 13. The Landlord's Legal Representative pointed out the Landlord is not willing to agree to a payment plan if he cannot see a payment forthcoming in April. The tenancy is fairly new, and the Landlord does not see that the Tenant is able to sustain the tenancy.
- 14. I find based on a balance of probabilities that the Tenant is being credible and is willing to make the payments towards rent arrears and even though the tenancy is fairly new, giving the Tenant a chance to pay off the rent arrears and preserve his tenancy is the most viable option for all parties involved.

It is ordered that:

- 1. The Tenant shall pay to the Landlord \$ 9,386.00 for arrears of rent up to March 31, 2023 and costs.
- 2. The Tenant shall pay to the Landlord the amount set out in paragraph 1 in accordance with the following schedule:

On or before May 20, 2023	\$500.00
On or before June 20, 2023	\$500.00

On or before July 20, 2023	\$500.00
On or before August 20, 2023	\$500.00
On or before September 20, 2023	\$500.00
On or before October 20, 2023	\$500.00
On or before November 20, 2023	\$500.00
On or before December 20, 2023	\$500.00
On or before January 20, 2024	\$500.00
On or before February 20, 2024	\$500.00

File Number: LTB-L-053526-22

On or before March 20, 2024	\$500.00
On or before April 20, 2024	\$500.00
On or before May 20, 2024	\$500.00
On or before June 20, 2024	\$500.00
On or before July 20, 2024	\$500.00
On or before August 20, 2024	\$500.00
On or before September 20, 2024	\$500.00
On or before October 20, 2024	\$500.00
On or before November 20, 2024	\$386.00

3. The Tenant shall also pay to the Landlord new rent on time and in full as it comes due and owing for the period May 2023 to October 2023, or until the arrears are paid in full, whichever date is earliest. The Tenant shall pay the April 2023 rent on or before 20th of April 2023.
4. If the Tenant fails to make any one of the payments in accordance with this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenant to the Landlord pursuant to paragraph 1 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenant, apply to the LTB within 30 days of the Tenant's breach pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenant and requiring that the Tenant pay any new arrears, NSF fees and related charges that became owing after March 31, 2023.

April 19, 2023

Sheena Brar

Date Issued

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.