



**Order under Section 21.2 of the
Statutory Powers Procedure Act and under
Section 69
Residential Tenancies Act, 2006**

Citation: RWC Management v Carscadden, 2023 ONLTB 31180

Date: 2023-04-18

File Number: LTB-L-038394-22

In the matter of: 2, 332 Eva Avenue Sudbury
ON P3C4N3

Between: RWC Management Landlord

And

Damon Trudeau, Julia Bertrand and Sophie Carscadden Tenant

RWC Management (the 'Landlord') applied for an order to terminate the tenancy and evict Damon Trudeau, Julia Bertrand and Sophie Carscadden (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-038394-22 issued on February 28, 2023, dismissing the application as abandoned as the Landlord did not attend the hearing.

The Landlord requested a review of the order on the basis that the Landlord was not reasonably able to participate in the hearing. Interim order LTB-L-038394-22-RV-IN issued on March 17, 2023 directed the matter to hearing and stayed the order issued on February 28, 2023.

This application was heard by videoconference on April 4, 2023.

Only the Landlord's representative, I. Fabian ('IF'), attended the hearing.

As of 1:15 pm 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:

1. I find that it was more likely than not that neither the Landlord nor the Landlord's representative received a copy of the notice of hearing for February 14, 2023 appearance. The Board's data base shows the contact information for the Landlord as the email address for the Landlord's representative, IF. IF testified that when she received a copy of the order issued February 28, 2023 she went back and checked her emails, including her junk folder. She regularly checks her emails and did not receive an email with the Notice of Hearing, though she received a copy of the order by email. The Tenant owes more than \$20,000.00 in rental arrears so that the Landlord had no intention of abandoning the application.
2. I granted the review and proceeded to hear the application de novo. was filed.
3. As of the hearing date, the Tenant was still in possession of the rental unit.
4. The lawful rent is \$1,750.00. It is due on the 1st day of each month.
5. Based on the Monthly rent, the daily rent/compensation is \$57.53. This amount is calculated as follows: \$1,750.00 x 12, divided by 365 days.
6. The Tenant has not made any payments since the application was filed.
7. The rent arrears owing to April 30, 2023 are \$21,550.00.
8. The Landlord incurred costs of \$244.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlord collected a rent deposit of \$1,750.00 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.
10. IF indicated that the Landlord has not been in communication with the Tenant about the application but the Landlord has been informed that most of the contents of the unit have been removed. It appears that the Tenant has already vacated the unit or is in the process of doing so, though the Tenant has not given the Landlord notice to that effect.
11. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

It is ordered that:

1. The request to review order LTB-L-038394-22 issued on February 28, 2023 is granted. That order is cancelled and replaced by the following paragraphs.
2. The tenancy between the Landlord and the Tenant is terminated as of April 29, 2023 unless the Tenant voids this order.
3. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**

- \$21,794.00 if the payment is made on or before April 29, 2023. See Schedule 1 for the calculation of the amount owing.
4. 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 April 29, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
 5. **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 April 29, 2023**
 6. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$18,524.12. 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.
 7. The Tenant shall also pay the Landlord compensation of \$57.53 per day for the use of the unit starting April 5, 2023 until the date the Tenant moves out of the unit.
 8. If the Tenant does not pay the Landlord the full amount owing on or before April 29, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 30, 2023 at 6.00% annually on the balance outstanding.
 9. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
 10. If the unit is not vacated on or before April 29, 2023, then starting April 30, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
 11. 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 April 30, 2023.

2023 ONLTB 31180 (CanLIJ)

April 18, 2023

Date Issued

Lynn Mitchell

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 October 30, 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 29, 2023**

Rent Owing To April 30, 2023	\$21,550.00
Application Filing Fee	\$244.00
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	\$21,794.00

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

Rent Owing To Hearing Date	\$20,030.12
Application Filing Fee	\$244.00
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	- \$1,750.00
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	\$18,524.12
Plus daily compensation owing for each day of occupation starting April 5, 2023	\$57.53 (per day)