



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

Citation: Tribute Properties Inc v Shemeluk, 2023 ONLTB 30705

Date: 2023-04-12

File Number: LTB-L-059322-22

In the matter of: 202, 2100 Regent Street
Sudbury Ontario P3E4S9

Between: Tribute Properties Inc Landlord

And

Jason Shemeluk Tenant

Tribute Properties Inc (the 'Landlord') applied for an order requiring Jason Shemeluk (the 'Tenant') to pay the rent that the Tenant owes.

This application was heard by videoconference on March 28, 2023.

Only the Landlord's Legal Representative, Jennifer Ricci, attended the hearing.

As of 10:15 a.m., 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. The Tenant vacated the rental unit on August 7, 2022. The Tenant was in possession of the rental unit on the date the application was filed.
2. The Tenant did not pay the total rent they were required to pay for the period from July 1, 2022 to August 31, 2022.
3. The lawful rent is \$1,249.00. It is due on the 1st day of each month.
4. The Tenant has not made any payments since the application was filed.
5. The Landlord's Legal Representative submitted that the Landlord is seeking the rent owing to August 31, 2022; the Tenant gave short notice to vacate on June 14, 2022 for

termination July 31, 2022. The Landlord did not accept the short notice and was unable to rent the unit in August 2022.

6. The Tenant is no longer in possession of the rental unit. The tenancy was not lawfully terminated in accordance with a valid notice of termination, LTB order or agreement to terminate the tenancy. Therefore, the Tenant's obligation to pay rent ends on August 31, 2023, and the Landlord rightfully applied the last month rent deposit to the month of August
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2023. This is in accordance with section 88 of the Residential Tenancies Act, 2006 (the 'Act'), says:

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 termination date that could have been specified in the notice, had the notice been given in accordance with section 47, 96 or 145, as the case may be.**

2. If the tenant abandoned or vacated the rental unit without giving any notice, arrears of rent are owing for the period that ends on the earliest termination date that could have been specified in a notice of termination had the tenant, on the date that the landlord knew or ought to have known that the tenant had abandoned or vacated the rental unit, given notice of termination in accordance with section 47, 96 or 145, as the case may be.

[Emphasis added]

7. The rent arrears and daily compensation owing to August 31, 2022 are \$2,498.00.
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 rent deposit in the amount of \$1,249.00; it was collected on August 1, 2021..

It is ordered that:

1. The Tenant shall pay to the Landlord \$2,690.52. This amount includes rent arrears owing up to August 31, 2022 and the cost of the application minus the rent deposit (\$1,249.00) and interest owing (\$8.48).

2. If the Tenant does not pay the Landlord the full amount owing on or before April 23, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 24, 2023 at 6.00% annually on the balance outstanding.

April 12, 2023

Date Issued

Diane Wade

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.

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