



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

Citation: Kaur v Letwin, 2023 ONLTB 30295

Date: 2023-04-12

File Number: LTB-L-063286-22

In the matter of: ROOM 5, 87 FENNELL AVE W HAMILTON
ON L9C1E8

Between: Rani Kaur Landlord

And

Dustin Letwin Tenant

Rani Kaur (the 'Landlord') applied for an order to terminate the tenancy and evict Dustin Letwin (the 'Tenant') because:

- the Tenant, another occupant of the rental unit or a person the Tenant permitted in the residential complex has seriously impaired the safety of any person and the act or omission occurred in the residential complex;
- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully caused undue damage to the premises;
- the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year.
- The Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on February 22, 2023. The Landlord and the Landlord's legal representative attended the hearing.

As of 9:30am, 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:

L2 APPLICATION

1. As explained below, the Landlord has proven on a balance of probabilities some of the grounds for termination of the tenancy therefore the applications are granted and the tenancy will terminate.
2. The Landlord's L2 application is based on two separate notices of termination. However, in adopting the most expeditious method of deciding an application, the hearing was narrowed to focus on the N12 notice of termination.
3. On October 11, 2022, the Landlord gave the Tenant an N12 notice of termination with the termination date of December 31, 2022. The Landlord claims that they require vacant possession of the rental unit for the purpose of residential occupation by their child.
4. The Landlord filed with the Board a declaration indicating that they in good faith require possession of the rental unit for the purpose of child's residential occupation for a period of at least one year. At the hearing the Landlord confirmed this intention.
5. The Landlord has compensated the Tenant an amount equal to one month's rent by December 31, 2022
6. The Landlord collected a rent deposit of \$420.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$37.57 is owing to the Tenant for the period from May 15, 2017 to February 22, 2023 .
7. As noted, the Tenant did not attend the hearing of this matter and thus I did not have the opportunity to hear their evidence regarding their circumstances. or to dispute the Landlord's application for an eviction order.
8. 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.

L1 APPLICATION

9. 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.
10. As of the hearing date, the Tenant was still in possession of the rental unit.
11. The lawful rent is \$500.00. It is due on the 1st day of each month.
12. Based on the Monthly rent, the daily rent/compensation is \$16.44. This amount is calculated as follows: \$500.00 x 12, divided by 365 days.

13. The Tenant has paid \$400.00 to the Landlord since the application was filed.
14. The rent arrears owing to February 28, 2023 are \$2,200.00.
15. The Landlord collected a rent deposit of \$420.00 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.
16. Interest on the rent deposit, in the amount of \$37.57 is owing to the Tenant for the period from May 15, 2017 to February 22, 2023.
17. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
18. Because the tenancy is being terminated for both a claim for personal use and nonpayment of rent, the eviction is not voidable under section 74 of the Act.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before April 17, 2023.
2. If the unit is not vacated on or before April 17, 2023, then starting April 18, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. 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 18, 2023.
4. the Tenant shall pay to the Landlord \$1,790.11. 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.
5. The Tenant shall also pay the Landlord compensation of \$16.44 per day for the use of the unit starting February 23, 2023 until the date the Tenant moves out of the unit.
6. 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

Curtis Begg
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 of the Tenant expires on October 18, 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.

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**Schedule 1
SUMMARY OF CALCULATIONS**

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

Rent Owing To Hearing Date	\$2,461.68
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$400.00
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	- \$420.00
Less the amount of the interest on the last month's rent deposit	- \$37.57
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	\$1,790.11
Plus daily compensation owing for each day of occupation starting February 23, 2023	\$16.44 (per day)