



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** Collard v Matthews, 2023 ONLTB 30513

**Date:** 2023-04-11

**File Number:** LTB-L-051174-22

**In the matter of:** 4, 91 St James Street  
Waterford ON N0E1Y0

**Between:** Clifford Collard and Leslie Collard Landlord

**And**

Zach Matthews Tenant

Clifford Collard and Leslie Collard (the 'Landlord') applied for an order to terminate the tenancy and evict Zach Matthews (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on March 28, 2023 at 09:00am.

The Landlord and the Tenant attended the hearing.

Only the Landlord Representative Jackie Struthers attended the hearing.

As of 10:30 am, 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 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 \$1,281.25. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$42.12. This amount is calculated as follows: \$1,281.25 x 12, divided by 365 days.
5. The Tenant has paid \$4,343.75 to the Landlord since the application was filed.
6. The rent arrears owing to March 31, 2023 are \$4,018.75.
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 \$1,250.00 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 \$30.33 is owing to the Tenant for the period from October 1, 2021 to March 28, 2023.
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. Specifically, at the outset of the hearing the Landlord Representative entered in evidence an email correspondence between the Tenant and herself in which they consented to the following payment plan and s.78 provision.

**It is ordered that:**

1. The Tenant shall pay to the Landlord \$4, 204.75 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:
  - a. On or before April 20, 2023 -\$1,000.00;
  - c. On or before May 20, 2023 -\$1,000.00;
  - d. On or before June 20, 2023 -\$1,000.00;
  - e. On or before July 20, 2023 -\$1,000.00; and
  - f. On or before August 25, 2023 -\$204.25.
  - g. On or before September 25, 2023 -\$936.00;
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 April 01, 2023 to August 01, 2023, or until the arrears are paid in full, whichever date is earliest.

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 11, 2023**

**Date Issued**

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Kelly Delaney

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.

