



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

Citation: Wu v Mclean, 2023 ONLTB 30383

Date: 2023-04-11

File Number: LTB-L-003244-22

In the matter of: 268 GREEN RD
STONEY CREEK ON L8E4J8

Between: Mingguang Wu Landlord

And

Troy Donna-Hugh Mclean Tenant

Mingguang Wu (the 'Landlord') applied for an order to terminate the tenancy and evict Troy Donna-Hugh Mclean (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard *de novo* by videoconference on March 31, 2023.

Only the Landlord's Legal Representative Ryan Chen and the Landlord's spouse attended the hearing.

As of 9:37 a.m., the Tenant was not present or represented at the *de novo* 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 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. It was determined that the N4 notice was defective in that the notice reflected the entire history of the tenancy, including nearly 2 years where the Tenant had paid the rent in full and on time and therefore, was deemed defective. The first month listed in the n4 notice, should be the first month in which arrears of rent begin to accrue.
3. As a result, the Landlord requested an order for arrears of rent only.
4. The Landlord acknowledged that the Board's financial jurisdiction is limited to a maximum of \$35,000.00 plus costs. They still requested an order for arrears only.

5. As of the hearing date, the Tenant was still in possession of the rental unit.
6. The lawful rent is \$2,200.00. It is due on the first day of each month.
7. Based on the Monthly rent, the daily rent/compensation is \$72.33. This amount is calculated as follows: \$2,200.00 x 12, divided by 365 days.

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8. The Tenant has paid \$7,550.00 to the Landlord since the application was filed.
9. The rent arrears owing to April 1, 2023 are \$42,000.00.
10. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
11. The Landlord collected a rent deposit of \$2,000.00 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.

It is ordered that:

1. The Tenant shall pay to the Landlord \$35,186.00. This amount includes the maximum limit in the Board's jurisdiction for rent arrears owing up to the date of the hearing and the cost of filing the application.
2. If the Tenant does not pay the Landlord the full amount owing on or before April 16, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 17, 2023, at 6.00% annually on the balance outstanding.

April 11, 2023

Date Issued

Robert Patchett

Vice Chair, 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.

