



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

Citation: 2618556 ONTARIO INC. v Davis, 2023 ONLTB 27755

Date: 2023-03-27

File Number: LTB-L-008118-22

In the matter of: 12, 127 FRONT STREET
SPANISH ON P0P2A0

Between: 2618556 ONTARIO INC. and 2618556 ONTARIO INC. Landlord

And

Gary Davis Tenant

2618556 ONTARIO INC. and 2618556 ONTARIO INC. (the 'Landlord') applied for an order to terminate the tenancy and evict Gary Davis (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on February 9, 2023. The Landlord and the Tenant attended the hearing.

For reasons contained in the Notice of Reconvene Hearing issued January 31, 2022, the matter was reconvened to allow the Board to determine the rent arrears.

The reconvened review hearing was heard by videoconference on February 09, 2023. Only the Landlord attended the reconvened hearing on February 09, 2023.

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:

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 \$470.00. It is due on the 1st day of each week.
4. Based on the Weekly rent, the daily rent/compensation is \$66.96. This amount is calculated as follows: \$470.00 x 52, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.

6. The rent arrears owing to February 28, 2023 are \$36,493.20.
7. The Landlord was informed that pursuant to subsection 207(1) of the Residential Tenancies Act, 2006 (the 'Act') the monetary jurisdiction of the Board is \$35,000.00.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Tenant did not dispute the rent arrears but claims that he has a written agreement with the Landlord, which allows him to stay in units 12 and 14 free while providing the renovation services in the building. The Tenant claims the rent arrears stem from the fact that the Landlord has not paid him for the renovation repairs completed since September 21, 2021. The Tenant submitted a copy of the written agreement to the Board, which states that SRI owes the Tenant \$13,895.00 as of September 7, 2021, and the Tenant has exclusive use to units 12 and 14 until SRI pays the outstanding. The agreement submitted was not dated and did not have name and the signature of the Landlord.
10. The Landlord testified that she hired the Tenant as a handyman to repair services in the motel, but the Tenant occupied units 12 and 14 in September 2021 without her authorization. The Landlord claims that she did not owe the Tenant any monies due to the repairs and did not sign any written agreement with the Tenant to reside in units 12 and 14. The Landlord testified that the Tenant has refused to pay rent since September 2021 and continues to reside in the units. The Landlord seeks a standard from the Board.
11. Based on the testimonies and documentary evidence before me, I find that the Tenant has not established on a balance of probabilities that the Landlord signed an agreement which authorises him to remain in units 12 and 14 free until the Landlord reimburses him the amount owed for the renovation services completed since September 21, 2021.
12. The Tenant's testimony was not consistent with the evidence submitted to corroborate his claim, as the written agreement was not dated and did not have the name and signature of the Landlord. I accept the Landlord's evidence that there was no agreement between the parties allowing the Tenant to occupy units 12 and 14 free until the Landlord reimburses him the amount owed. I also find that the Landlord correctly calculated the rent arrears as the Landlord provided clear, concise and detailed evidence.
13. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenant 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 tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
2. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$35,186.00 if the payment is made on or before April 11, 2023. See Schedule 1 for the calculation of the amount owing.

3. 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 11, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
4. **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 11, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$35,406.96. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$66.96 per day for the use of the unit starting April 10, 2023 until the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlord the full amount owing on or before April 11, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 8, 2023 at 5.00% annually on the balance outstanding.
8. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
9. If the unit is not vacated on or before April 10, 2023, then starting April 11, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
10. 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 11, 2023.

March 31, 2023

Date Issued

Percy Laryea
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 8, 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.

*Note: When the Board directs payment-out, the Canadian Imperial Bank of Commerce will issue a cheque to the appropriate party named in this notice. The cheque will be in the amount directed plus any interest accrued up to the date of the notice

**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 7, 2023

Rent Owing To April 7, 2023	\$39,037.68
Application Filing Fee	\$186.00
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	\$39,491.52
Total the Tenant must pay to continue the tenancy	\$35,000.00

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

Rent Owing To Hearing Date	\$35,220.96
Application Filing Fee	\$186.00
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	- \$
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	\$35,406.96
Plus daily compensation owing for each day of occupation starting February 10, 2023	\$66.96 (per day)

