



Tribunals Ontario
Landlord and Tenant Board

Tribunaux décisionnels Ontario
Commission de la location immobilière

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

Citation: Capreit Limited Partnership v Wheeler, 2023 ONLTB 24088

Date: 2023-03-14

File Number: LTB-L-042654-22

In the matter of: 404, 744 FANSHAWE PARK RD E LONDON
ON N5X2L9

Between: Capreit Limited Partnership Landlord

And

Kiefer Wheeler Tenant

Capreit Limited Partnership (the 'Landlord') applied for an order to terminate the tenancy and evict Kiefer Wheeler (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

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

Only the Landlord's Agent Ayden Pearson attended the hearing.

As of 1:37 p.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. Since the Tenant did not attend and the Landlord was prepared to proceed, the matter proceeded by way of an uncontested hearing pursuant to section 7 of the *Statutory Powers Procedure Act*, R.S.O. 1990.

Determinations:

1. At the hearing the Landlord relied on oral submissions and referred to documents to support their application.
2. 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.
3. The Tenant was in possession of the rental unit on the date the application was filed.

4. The Tenant vacated the rental unit on August 31, 2022. Rent arrears are calculated up to the date the Tenant vacated the unit.
5. The lawful rent was \$1,250.00. It was due on the 1st day of each month.
6. The Tenant has not made any payments since the application was filed.
7. The rent arrears owing to August 31, 2022 are \$2,500.00.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. 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 is applied to the arrears of rent because the tenancy terminated.
10. Interest on the rent deposit, in the amount of \$6.25 is owing to the Tenant for the period from April 2, 2022 to August 31, 2022.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of August 31, 2022, the date the Tenant moved out of the rental unit
2. The Tenant shall pay to the Landlord \$1,429.75. This amount includes rent arrears owing up to the date the Tenant moved out of the rental unit and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit is deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.
3. If the Tenant does not pay the Landlord the full amount owing on or before March 25, 2023, the Tenant will start to owe interest. This will be simple interest calculated from March 26, 2023 at 5.00% annually on the balance outstanding.

March 14, 2023

Date Issued

John Cashmore

Member, Landlord and Tenant Board

15 Grosvenor St, 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.

**Schedule 1
SUMMARY OF CALCULATIONS**

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

Rent Owing To Move Out Date	\$2,500.00
Application Filing Fee	\$186.00
Less the amount of the last month's rent deposit	- \$1,250.00
Less the amount of the interest on the last month's rent deposit	- \$6.25
Total amount owing to the Landlord	\$1,429.75