



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

Citation: Durham Region Non-Profit v Duncan, 2023 ONLTB 25513

Date: 2023-03-13

File Number: LTB-L-043442-22

In the matter of: 95, 1580 Kingston Road, PICKERING
ON L1V6M6

Between: Durham Region Non -Profit Housing Corp. Landlord

And

Amy Duncan Tenant

Durham Region Non-Profit Housing Corp. (the 'Landlord') applied for an order to terminate the tenancy and evict Amy Duncan (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on March 1, 2023.

Only the Landlord's agent, A. Herscheid, attended the hearing.

As of 2:25 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. 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 \$1,409.00. It is due on the first day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$46.32. This amount is calculated as follows: \$1,409.00 x 12, divided by 365 days.
5. The Tenant has paid \$11,942.00 since the application was filed.
6. The rent arrears owing to March 31, 2023 are \$1,910.00.

7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

Order Page: 1 of 2

File Number: LTB-L-043442-22

8. The Landlord collected a rent deposit of \$1,347.74 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 \$16.11 is owing to the Tenant for the period from January 1, 2021 to March 1, 2023.
10. The Landlord's agent, A. Herscheid (AH), said that the parties had discussed and agreed on a repayment agreement. The Tenant had told her she would pay \$343.50 towards the arrears, plus the full amount of the March 2023 rent by March 25, 2023. She was going to pay the same amount on or before April 25, 2023.
11. 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. In particular, the parties had agreed on repayment terms. I find that it is fair to provide the Tenant an opportunity to meet the repayment terms she agreed to with the Landlord.

It is ordered that:

1. The Tenant shall pay to the Landlord \$2,096.00 for arrears of rent and costs up to March 31, 2023.
2. The Tenant shall pay to the Landlord the amount set out in paragraph 1 in accordance with the following schedule:
 - (a) \$1,752.50 on or before March 25, 2023,
 - (b) \$343.50 on or before April 25, 2023.
3. The Tenant shall also pay to the Landlord the new rent for April 2023, on or before April 25, 2023.
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.

March 13, 2023 _____ **Date Issued**

Nancy Morris

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.

Order Page: 2 of 2