



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

**Citation:** Miller v Brady, 2023 ONLTB 24851

**Date:** 2023-03-08

**File Number:** LTB-L-034456-22

**In the matter of:** 2, 421 LAKESHORE DR  
NORTH BAY ON P1A2C9

**Between:** John Miller Landlord

**And**

James Brady Tenant

John Miller (the 'Landlord') applied for an order to terminate the tenancy and evict James Brady (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

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

Only the Landlord's agent, H. Gibson, attended the hearing.

The Tenant signed into the hearing late, and when the application was called at 11:54 a.m., the Tenant would not unmute their microphone, and did not participate in 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 \$1,032.11. It is due on the day day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$33.93. This amount is calculated as follows: \$1,032.11 x 12, 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 \$8,612.80.
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 \$995.00 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. The Landlord requests a standard termination order. The Landlord's agent, H. Gibson (HG), said that the Tenant told the Landlord he would move out in September 2022, and his daughter would remain in the rental unit and pay the rent. She said that there has been no communication from the Tenant since then, and no rent has been paid. She also said that she believes the Tenant has moved out, and she discovered there was an occupant in the unit who was paying the Tenant's daughter \$1,100.00 per month rent.
10. 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 I find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. In particular, the relationship with the Tenant has broken down. The Tenant has not replied to any communication from the Landlord for at least five months. The Landlord has reason to believe that the Tenant has moved out and is now profiting from renting out the unit to someone, while failing to pay rent to the Landlord.

**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:**
  - \$9,830.91 if the payment is made on or before March 19, 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 March 19, 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 March 19, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$6,785.39. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit are

deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.

6. The Tenant shall also pay the Landlord compensation of \$33.93 per day for the use of the unit starting February 2, 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 March 19, 2023, the Tenant will start to owe interest. This will be simple interest calculated from March 20, 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 March 19, 2023, then starting March 20, 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 March 20, 2023.

2023 ONLTB 24851 (CanLII)

**March 8, 2023**

**Date Issued**

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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.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on September 20, 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.

**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 March 19, 2023**

Rent Owing To March 31, 2023	\$9,644.91
Application Filing Fee	\$186.00

NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$9,830.91</b>

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

Rent Owing To Hearing Date	\$7,614.62
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount of the last month's rent deposit	- \$995.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$20.23
<b>Less</b> the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total amount owing to the Landlord</b>	<b>\$6,785.39</b>
Plus daily compensation owing for each day of occupation starting February 2, 2023	\$33.93 (per day)