



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

Citation: Better Living Homes Inc. v McLeod, 2023 ONLTB 22576

Date: 2023-02-27

File Number: LTB-L-018332-22

In the matter of: 1710, 126 BELLAMY RD N
SCARBOROUGH ON M1J2L1

Between: Better Living Homes Inc. Landlord

And

Mark McLeod Tenant

Better Living Homes Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Mark McLeod (the 'Tenant') because:

- the Tenant has been persistently late in paying the Tenant's rent.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on February 9, 2023.

Only the Landlord's legal representative, Sabrina Sciulli, attended the hearing.

Determinations:

1. On March 10, 2022, the Landlord gave the Tenant an N8 notice of termination with a termination date of May 31, 2022.
2. Tenant has persistently failed to pay the rent on the date it was due. The rent is due on the first day of each month. The rent has been paid late consecutively for more than 6 months, with the Tenant making the rent payment on dates between the seventh (7th) of each month to the twentieth (20th) of each month.
3. The Landlord submitted a ledger as evidence to support their claim the Tenant has paid their rent persistently late.
4. The Tenant was required to pay the Landlord \$8,760.20 in daily compensation for use and occupation of the rental unit for the period from June 1, 2022 to February 9, 2023.
5. Based on the Monthly rent, the daily compensation is \$34.49. This amount is calculated as follows: \$1,049.04 x 12, divided by 365 days.

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6. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
7. The Landlord collected a rent deposit of \$1,004.21 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$14.80 is owing to the Tenant for the period from January 1, 2021 to February 9, 2023 .
8. In accordance with subsection 106(10) of the *Residential Tenancies Act, 2006*, (the 'Act') the last month's rent deposit shall be applied to the rent for the last month of the tenancy.
9. At the hearing the Landlord's legal representative submitted a request for a twenty four (24) month conditional order for the Tenant to pay his lawful rent on time and in full, with a s. 78 to be applied to the order.
10. In the absence of the Tenant to provide his submissions regarding a twenty four month conditional order, I find it reasonable to grant the Landlord the request for a conditional order, however I am taking into consideration the length of the tenancy and denying the Landlord an order for twenty four months. The Tenant has been a resident in the rental unit since October 2007 and I find it reasonable to grant the Landlord a conditional order for the Tenant to pay lawful rent on time and in full for twelve (12) months.
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.
12. I have considered all of the evidence presented at the hearing and all of the oral testimony and although I may not have referred to each piece of evidence individually or referenced all of the testimony, I have considered it when making my determinations.
13. This order contains all reasons for the determinations and order made. No further reasons will be issued.

It is ordered that:

1. The Tenant shall pay to the Landlord new rent on time and in full for the period of March 1, 2023 to February 1, 2024.
2. If the Tenant fails to make any one of the payments in accordance with paragraph 1 of this order the Landlord may, without notice to the Tenant and within 30 days of the breach, apply to the Board pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenant.
3. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application on or before March 31, 2023.
4. If the Tenant fails to comply with paragraph 3 of this order, the Tenant will start to owe interest. This will be simple interest calculated from April 1, 2023 at 5.00% annually on the balance outstanding.

February 27, 2023
Date Issued

Greg Brocanier
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.

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