



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

**Citation:** Omar v Jones, 2023 ONLTB 22484

**Date:** 2023-02-27

**File Number:** LTB-L-037201-22

**In the matter of:** Basement, 48 Mossbank Dr  
Scarborough ON L1X1N5

**Between:** Minhas Omar Landlord

**And**

Tracy Jones Tenant

Minhas Omar (the 'Landlord') applied for an order to terminate the tenancy and evict Tracy Jones (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on February 13, 2023.

The Landlord and the Tenant attended the hearing.

**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. The Tenant was in possession of the rental unit on the date the application was filed.
3. The Tenant vacated the rental unit on August 17, 2022. Rent arrears are calculated up to the date the Tenant vacated the unit.
4. The lawful rent is \$. It was due on the 15th day of each month.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to August 17, 2022 are \$5,978.22.
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 \$1,900.00 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.
9. Interest on the rent deposit, in the amount of \$34.29 is owing to the Tenant for the period from February 15, 2020 to August 17, 2022.

LANDLORD'S APPLICATION FOR ARREARS

10. The Landlord provided to the Board, the N4 notice, the L1 application and the update sheet that indicated the Tenant had vacated the rental unit on August 17, 2022. The Landlord is claiming arrears up to the date the Tenant vacated the rental unit.
11. The position of the Landlord is that the Tenant texted him on August 17, 2022 from the Tenant stating she was moving out and left the keys to the rental unit in the unit.
12. The position of the Tenant is she is disputing the arrears claiming she made payments for lawful rent for May, 2022, June 2022 and July 2022, that Landlord had not accounted for. On the day of the hearing the Tenant did not have any evidence submitted to the Board to support her claim.
13. The Tenant claimed she had proof and did not submit it to the Board.

RULES OF PROCEDURE ON EVIDENCE

14. Rule 19 - Disclosure and Evidence

19.1 Unless the LTB has directed or ordered otherwise, all parties to a matter that has been scheduled for a CMH or a hearing must provide the other parties and the LTB with a copy of all documents, pictures and other evidence that the party intends to rely upon at least 7 days before the CMH or hearing . The evidence must be provided to the other parties using one of the methods of service identified in the RTA or Rule 3.

19.3 At any time before the hearing has been completed, a party may be directed or ordered to disclose and exchange documents or any other material relevant to the proceeding unless the LTB is satisfied the document is privileged.

15. Although the Tenant did not submit her evidence prior to the hearing with respect to Rule 19.1, I allowed the Tenant time to submit her evidence with respect to her payments pursuant to Rule 19.3 in order for me to make a determination on the arrears.
16. The Landlord did not dispute the Tenant's submission of evidence.
17. The Tenant submitted photos of screen captures from her computer to the Board. The photos were blurry to the point that I was unable to see any of the information. I shared my screen to show the Tenant, who confirmed the screen captures were too blurry to read.
18. I allowed the Tenant an opportunity to share her screen in order to see the payments the Tenant claimed she made that the Landlord did not account for.
19. The Tenant was unable to provide the evidence she claimed to have had. The Tenant did not have evidence for payments she claims she made for the period the Landlord was claiming.
20. After affording the Tenant the opportunity to share he screen and show her evidence to the Board and the Landlord, the Tenant concluded that she did not have the payments she

claimed to have made. Since the Tenant was unable to support her claim that she did not owe the arrears, the Tenant changed her submission stating she in fact did owe for June 2022 and July 2022.

21. The standard of proof in proceedings before this Board is “proof on a balance of probabilities.” By that standard, the party bearing the burden of proof must show with evidence that, “more likely than not”, their assertions are true.
22. With the evidence before me and on a balance of probabilities, I find the Landlord’s application for arrears to be valid. I prefer the evidence and testimony of the Landlord and find him credible with respect to the submissions he made. I am not persuaded by the Tenant’s testimony having changed her submission on the rent owed and having been unable to provide any evidence of payment she claims to have made to the Landlord that he did not account for and therefore the Tenant’s claim the Landlord’s application amount for arrears are inaccurate is dismissed.

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**It is ordered that:**

1. The tenancy between the Landlord and the Tenant is terminated as of August 17, 2022, the date the Tenant moved out of the rental unit
2. The Tenant shall pay to the Landlord \$4,229.93. 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 10, 2023, the Tenant will start to owe interest. This will be simple interest calculated from March 11, 2023 at 5.00% annually on the balance outstanding.

**February 27, 2023**  
**Date Issued**

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Greg Brocanier  
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.

\*Note: When the LTB 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 as the tenancy is terminated**

Rent Owing To Move Out Date	\$5,978.22
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	- \$1,900.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$34.29
<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>\$4,229.93</b>

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