



Order under Section 16.1 of the
Statutory Powers Procedure Act
and the **Residential Tenancies Act, 2006**

Citation: Nithiyananthan v Dwyer, 2023 ONLTB 22418

Date: 2023-02-21

File Number: LTB-L-082533-22-IN1

In the matter of: Basement, 163 LAWSON RD
SCARBOROUGH ON M1C2J5

Between: Sriramy Nithiyananthan Landlord

And

Patrick George Dwyer Tenant

Sriramy Nithiyananthan (the 'Landlord') applied for an order to terminate the tenancy and evict Patrick George Dwyer (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes. (L1 application)

The Landlord also applied for an order to terminate the tenancy and evict the Tenant because the Tenant entered into an agreement to terminate the tenancy. (L3 application)

These L1 and L3 applications were heard by videoconference on February 16, 2023. The Landlord, the Tenant and the Tenant's Legal Representative, Louis Robinson, attended the hearing. The Tenant's Legal Representative called into the conference bridge from Arizona, and participated only for the preliminary matter related to his request to reschedule the hearing.

Based on the submissions of the parties and in respect of the Tenant's February 10, 2023 request to reschedule the hearing, I determined the adjournment was to be granted, but I made the adjournment peremptory on the Tenant. The Landlord's Legal Representative indicated he had been duly retained but was unable to consult properly with the Tenant, neither was he able to prepare for this hearing due to his personal family matter, especially in respect of the maintenance claims the Tenant intends to raise under section 82 of the *Residential Tenancies Act, 2006*. The Landlord contested the legal representative's submissions, but I determined that it was more important to uphold the principles of natural justice and grant the Tenant the ability to prepare adequately for the hearing.

Determinations:

1. The merits hearing for the the L1 and L3 applications is to be adjourned, peremptory on the Tenant.

It is ordered that:

1. The hearing for the Landlord’s L1 and L3 applications is adjourned, but is made peremptory on the Tenant. Subject to the availability of the parties, the LTB will set the date of the next hearing.
2. No later than February 28, 2023, the Tenant shall provide to the Landlord and the LTB any possible evidence related to the L3 application, the L1 application’s rent arrears as claimed by the Landlord, and the section 82 claims and remedies intended to be raised/requested by the Tenant, namely, copies of all documents, photographs and other possible evidence they intend to submit to the LTB at the next hearing. This disclosure requirement extends to any potential evidence related to section 83 circumstances, if any. If there are witnesses to testify at the hearing, they are to be identified as part of this disclosure requirement.
3. No later than March 7, 2023, the Landlord shall provide to the Tenant and the LTB any supplemental (possible) evidence, namely, copies of all documents, photographs and other possible evidence they intend to submit to the LTB at the next hearing. This disclosure requirement extends to any potential evidence related to section 83 circumstances, if any. If there are witnesses to testify at the hearing, they are to be identified as part of this disclosure requirement.
4. **Payments of Rent Before the Next Scheduled Hearing:** The Tenant shall make the following rent payments:

Date of Payment	Amount Tenant is to Pay	Paid to
On or before March 1, 2023	\$ 650.00 (rent for March 2023)	<input checked="" type="checkbox"/> Landlord <input type="checkbox"/> LTB
On or before the first (1 st) day of each and every month starting on April 1, 2023 up to date of the next LTB hearing	\$ 600.00 (rent for April 2023 and each subsequent, respective month)	<input checked="" type="checkbox"/> Landlord <input type="checkbox"/> Board

5. **Non-compliance:** If a party does not comply with paragraphs (2), (3) and/or (4) above, as it may apply to them, the LTB Member may refuse to accept or consider that party’s submitted evidence or section 82 claims/rebuttals.

February 21, 2023

Date Issued

Alex Brkic
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.