



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** Sharma v Beilby, 2023 ONLTB 20845

**Date:** 2023-02-21

**File Number:** LTB-L-074364-22

**In the matter of:** 202, 298 MAIN ST  
MATTAWA ON P0H1V0

**Between:** Gautam Sharma Landlord

**And**

Tyler Beilby Tenant

Gautam Sharma (the 'Landlord') applied for an order to terminate the tenancy and evict Tyler Beilby (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

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

The Landlord attended the hearing. The Tenant was represented at the hearing by his spouse, Jennifer Dool (JD). The named Tenant was present in another room, but unavailable to participate in the hearing, due to illness.

### **Preliminary Matter:**

#### *Request for Adjournment*

1. The Tenant requested an adjournment, because they had been unable to obtain legal advice prior to the hearing. The Landlord objected to the adjournment. JD testified that the attorney they contacted was not available to participate in the hearing. There was no communication from the representative in the Board's files, and the Tenant had not sought the Landlord's consent to adjourn prior to the hearing.
2. As the Tenant had received the Notice of Hearing on December 19, 2022, and the Tenant had ample time to seek legal advice prior to the hearing, I denied the Tenant's request to adjourn.

#### *The N4 Notice*

3. The Landlord testified that he served the Tenant with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice) with a termination date of December 3, 2022, on November 15, 2022 by placing the N4 under the Tenant's door. At the hearing, the Landlord submitted a certificate in support of his testimony. JD testified that the Tenant did not receive the notice.

4. Here, the parties' testimony was contradictory, and I find no reason to prefer one party's testimony over the other. This is a Landlord's application and the Landlord bears the burden of proof, which, given all of the circumstances, I find he has not met with respect to the service of the N4 notice.
5. Therefore, the only part of the application that proceeded was the claim for rent arrears. As a result, the order will be limited to rent arrears and costs only, not eviction.

### *Arrears*

6. In their application, the Landlord claimed rent arrears of \$1,900.00. JD disputed the arrears as she claimed that the Tenant had paid the rent for December 2022 on December 4, 2022. The Tenant submitted a screenshot of the rental payment as evidence. The Landlord agreed that the payment had been made.
7. Therefore, the application is amended to reflect a claim of \$950.00 for arrears at the time of filing.

### **Determinations:**

1. As of the hearing date, the Tenant was still in possession of the rental unit.
2. The lawful rent is \$950.00. It is due on the 1st day of each month.
3. The rent arrears owing to February 28, 2023 are \$2,850.00.
4. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
5. There is no last month's rent deposit.
6. JD testified that the Tenant had been withholding rent, and would be able to pay \$1,000.00 immediately, and an additional month's arrears within a few weeks.
7. The Landlord requested an order for the arrears to be paid by February 28, 2023.

### **It is ordered that:**

1. The Tenant shall pay the Landlord \$3,036.00, which represents arrears of rent (\$2,850.00) and costs (\$186.00) outstanding for the period ending February 28, 2023, on or before February 28, 2023.
2. If the Tenant does not pay the Landlord the full amount owing on or before February 28, 2023, the Tenant will start to owe interest. This will be simple interest calculated from March 1, 2023 at 5.00% annually on the balance outstanding.

**February 21, 2023**  
**Date Issued**

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Kathleen Wells  
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.