



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

**Citation:** 18 Fourteenth Inc. v Beltrano, 2023 ONLTB 20765

**Date:** 2023-02-21

**File Number:** LTB-L-029751-22

**In the matter of:** 203, 18 FOURTEENTH ST ETOBICOKE  
ON M8V3H9

**Between:** 18 Fourteenth Inc. Landlord

**And**

Andrew Beltrano Tenant

18 Fourteenth Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Andrew Beltrano (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 19, 2023.

The Landlord's Agent, Buchi Olori, the Landlord's Legal Representative, Catherine Salgado 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. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$1,315.60. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$43.25. This amount is calculated as follows: \$1,315.60 x 12, divided by 365 days.
5. The Tenant has paid \$6,880.00 to the Landlord since the application was filed.
6. The rent arrears owing to January 31, 2023 are \$4,929.20.

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 \$1,300.00 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. Interest on the rent deposit, in the amount of \$34.21 is owing to the Tenant for the period from June 25, 2021 to January 19, 2023.

### Section 82 Issues

10. At the hearing, the Tenant wanted to raise section 82 issues for me to consider why he had not paid the monthly rent. The Tenant stated he withheld rent because the Landlord failed to address the pest issues in his unit.
11. When the Tenant was asked whether he had served a list of section 82 issued on the Landlord and filed it with the Board, he stated that he had not as he does not own a computer and he recently had surgery thus he had not had the means to provide notice to the Landlord or the Board.
12. Pursuant to section 82 of the *Residential Tenancies Act, 2006* (the 'Act'), a tenant is permitted to raise any issue that could be the subject of an application if the tenant complies with disclosure requirements or provides an explanation satisfactory to the Board explaining why the tenant could not comply. The Tenant did not meet the disclosure requirements of serving his list of section 82 issues and any evidence on the Landlord and filing with the Board five days prior to the hearing. The Tenant did not provide a satisfactory response as to why he did not comply. The Tenant's evidence was that he received the Notice of Hearing on December 1, 2022. The Notice of Hearing is accompanied by documents, one of which includes a blank form that the Tenant can complete regarding maintenance or other Tenant issues. The documents also outline the disclosure requirements. The Tenant ought to have known his disclosure obligations to raise section 82 issues.
13. As such, I did not hear the Tenant's evidence regarding the maintenance issues in his unit. However, it should be noted that this does not preclude the Tenant from bringing his own application regarding these maintenance issues. He may wish to contact his local legal clinic to get advice in this regard.

### Section 83 considerations

14. Pursuant to section 83(6) of the Act, the Landlord's Legal Representative submitted that three letters were sent to the Tenant regarding a payment agreement. These letters were dated November 23, 2022, November 30, 2022, and January 4, 2023. These letters were submitted into evidence. The Landlord's Agent testified the Tenant did not respond to the first two letters but did respond to the third letter by submitting a maintenance complaint.

15. I am satisfied by the Landlord's evidence that the letters were sent to the Tenant. As such, I find that the Landlord had attempted to negotiate a payment agreement with the Tenant.
16. Pursuant to section 83(2) of the Act, the Tenant testified that while he only moved into the rental unit in June 2021, he does not want to move out of the rental unit and would like to preserve his tenancy. He did not dispute the arrears outstanding and said he intentionally withheld the rent from the Landlord because of the pest issue in his unit. However, I as declined to hear the Tenant's section 82 issues, the full amount of arrears is outstanding.
17. The stated that he could not commit to a payment plan with the Landlord as he would like the opportunity to speak to the various social agencies with respect to assistance with the rent arrears. He stated that until he receives a response from the rent bank, his unable to offer dates or amounts for a payment plan. The Tenant added that although he withheld the monthly rent, he no longer has this money due to other expenses.
18. The Tenant testified that due to his recent surgery, he will require at least four weeks to recover and during this time, he is not working. He testified that when he returns to work, he earns a monthly income of \$3,600.00. He stated his monthly expenses, including the rent, total \$3,130.60 leaving him a surplus of \$469.00. Given this surplus, the Tenant would not commit to a payment plan.
19. The Landlord's Legal Representative submitted the Tenant is not able to afford the monthly rent and is not able to provide a definitive response to a payment plan. She submitted the Landlord is seeking an 11-day standard order but would be agreeable to a payment plan over a period of twelve months.
20. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act, including whether the Landlord attempted to negotiate a repayment agreement with the Tenant and find that it would not be unfair to postpone the eviction to March 31, 2023 pursuant to subsection 83(1)(b) of the Act. Although the Tenant has not paid the monthly rent since November 2022, and a twelve month payment plan is not a viable option as the Tenant's monthly income and expenses cannot support such a payment plan, I find providing him with additional time to find assistance with the rent arrears or alternative housing is warranted.

**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:
  - \$6,430.80 if the payment is made on or before February 28, 2023. See Schedule 1 for the calculation of the amount owing.

OR

- \$7,746.40 if the payment is made on or before March 31, 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 31, 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 31, 2023
  5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$3,287.14. 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 \$43.25 per day for the use of the unit starting January 20, 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 3, 2023, the Tenant will start to owe interest. This will be simple interest calculated from March 4, 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 31, 2023, then starting April 1, 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 April 1, 2023.

**February 21, 2023**

**Date Issued**

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Susan Priest

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 4, 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.

\*Note: When the Board 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 to void the eviction order and continue the tenancy if the payment is made on or before February 28, 2023**

Rent Owing To February 28, 2023	\$13,124.80
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	- \$6,880.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$6,430.80</b>

**B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before March 3, 2023**

Rent Owing To March 31, 2023	\$14,440.40
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	- \$6,880.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$7,746.40</b>

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

Rent Owing To Hearing Date	\$11,315.35
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	- \$6,880.00

<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	- \$1,300.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$34.21
<b>Total amount owing to the Landlord</b>	<b>\$3,287.14</b>
Plus daily compensation owing for each day of occupation starting January 20, 2023	\$43.25 (per day)