



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** Erica Court Limited v Hale, 2023 ONLTB 21075

**Date:** 2023-02-16

**File Number:** LTB-L-031591-22

**In the matter of:** 303, 485 EGLINTON AVE E  
TORONTO ON M4P1N2

**Between:** Erica Court Limited Landlord

**And**

Colston Hale Tenant

Erica Court Limited (the 'Landlord') applied for an order to terminate the tenancy and evict Colston Hale (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 30, 2023.

The Landlord did not attend the hearing but was represented by Elaine Page and Daniel Coulson, student-in-law.

As of 11:35 a.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

### **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 \$809.82. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$26.62. This amount is calculated as follows: \$809.82 x 12, divided by 365 days.
5. The Tenant has paid \$6,478.56 to the Landlord since the application was filed.
6. The rent arrears owing to January 31, 2023 are \$158.81.
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 \$764.42 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 \$19.06 is owing to the Tenant for the period from February 1, 2022 to January 30, 2023.
10. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenant 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. Given the number of payments made by the Tenant, I find that the tenancy remains viable and would benefit from additional time to address the remaining arrears.

**It is ordered that:**

1. The Tenant shall pay to the Landlord \$344.81, which represents the arrears of rent (\$158.81) and costs (\$186.00) outstanding for the period ending January 31, 2023.
2. The Landlord's application for eviction of the Tenant is denied on the condition that:
  - (a) The Tenant shall make the following payment to the Landlord in respect of the monies owing under paragraph 1 of this order:
    1. On or before March 1, 2023, the Tenant shall pay the Landlord \$344.81;
3. If the Tenant fails to make the payments in accordance with paragraph 2, and by the date required, then:
  - (a) The Landlord may apply, without notice to the Tenant, under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenant, and for the payment of any new arrears of rent and NSF charges not already ordered under paragraph 1 of this order. The Landlord must make the application within 30 days of a breach of a condition set out in paragraph 2 of this order.
  - (b) The balance owing under paragraph 1 of this order shall become payable on the day following the date of default. The monies shall bear interest at the post-judgement interest rate determined under subsection 207(7) of the Act.

**February 16, 2023**  
**Date Issued**

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 Emile Ramlochan  
 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.