



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** Franceschi v Ladouceur, 2023 ONLTB 20314

**Date:** 2023-02-14

**File Number:** LTB-L-013164-22

**In the matter of:** 12, 2645 KEELE ST  
NORTH YORK ON M6L2P2

**Between:** Enrico Franceschi Landlord

**And**

Brett Ladouceur Tenant

Enrico Franceschi (the 'Landlord') applied for an order to terminate the tenancy and evict Brett Ladouceur (BL) (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, another occupant of the rental unit or someone the Tenant permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant (L2 application).

The Landlord also claimed compensation for unpaid utilities.

This application was heard by videoconference on January 12, 2023.

The Landlord, the Landlord's legal representative, Babak Karimkhani, and the Tenant's child, Payton Ladouceur (PL), on behalf of the Tenant, attended the hearing.

### **Preliminary Issue:**

1. PL raised the issue that the Tenant is his father, and that the other names on the notice are the Tenant's children, and PL's siblings, and should be removed.
2. PL stated that he was 16 years old, and the oldest sibling, when the tenancy began.
3. The Landlord stated that the children's names should not be removed as they are Tenants.
4. The Landlord stated that the tenancy is 9 years old and the Tenant comes and goes from the unit, as he works out of town.
5. The Landlord indicated that he only signed a lease agreement with the Tenant. He sees the Tenant's children coming in and out of the unit, but does not know who lives there.

6. Based on the evidence adduced at the hearing, I find that there is only one Tenant, BL. His children are occupants of the unit. I say this because, there was no evidence before me, that the Landlord or the occupants had any discussion that they should be Tenants. The children were minors when they started living in the unit, and there was no evidence that when they became adults that they were to be added to the tenancy as Tenants.

**Determinations:**

1. The Landlord served the Tenant with a Notice to End Tenancy Early for Non-payment of Rent (N4 Notice).
2. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$910.35. It is due on the 1st day of each month.
4. Based on the monthly rent, the daily rent/compensation is \$29.93. This amount is calculated as follows: \$910.35 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to January 31, 2023 are \$12,744.90.
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 \$850.00 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 \$110.65 is owing to the Tenant for the period from September 1, 2014 to January 12, 2023.
10. There was no dispute that the Tenant owes the Landlord the total of \$12,930.90 for rent arrears to January 31, 2023 and the filing fee.
11. 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 Tenants and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
12. PL stated that they want to move out of the unit and need until February 28, 2023 to move out. The Landlord agreed to a standard order with a voiding date of February 28, 2023.
13. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to postpone the eviction until February 28, 2023 pursuant to subsection 83(1)(b) of the Act.

**L2 application: N5 Substantial Interference with Reasonable Enjoyment/Utilities**

14. At the hearing the Landlord withdrew their Form N5 Notice of Termination for substantial interference with reasonable enjoyment.
15. The Landlord's application was amended to add the hydro bills that came due after the application was filed. The Landlord claimed a total of \$912.86 for the hydro.
16. The Landlord stated that there was an agreement that the Tenant pay the hydro. As such, the Tenant paid the hydro for 8 years of the tenancy. The Tenant stopped paying the hydro and this was not agreed to by the Landlord.
17. I find on a balance of probabilities that it was part of the tenancy agreement that the Tenant pay the hydro.
18. At the hearing, PL agreed that the Tenant would pay the hydro bills.

**It is ordered that:****Order regarding L1 application**

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:**
  - \$13,841.25 if the payment is made on or before February 28, 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 February 28, 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 February 28, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$11,419.06. 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 \$29.93 per day for the use of the unit starting January 13, 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 February 25, 2023, the Tenant will start to owe interest. This will be simple interest calculated from February 26, 2023 at 5.00% annually on the balance outstanding.
8. If the unit is not vacated on or before February 28, 2023, then starting March 1, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
9. 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 March 1, 2023.

**Order regarding L2 application**

10. The Tenant shall pay to the Landlord the amount of \$912.86, which represents the hydro bills.
11. If the Tenant does not pay the Landlord the full amount owing on or before February 25, 2023, the Tenant will start to owe interest. This will be simple interest calculated from February 26, 2023 at 5.00% annually on the balance outstanding.

**February 14, 2023**  
**Date Issued**

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Debbie Mosaheb  
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 1, 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.

**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	\$13,655.25
Application Filing Fee	\$186.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$13,841.25</b>

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

Rent Owing To Hearing Date	\$12,193.71
Application Filing Fee	\$186.00
<b>Less</b> the amount of the last month's rent deposit	- \$850.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$110.65
<b>Total amount owing to the Landlord</b>	<b>\$11,419.06</b>
Plus daily compensation owing for each day of occupation starting January 13, 2023	\$29.93 (per day)