



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

**Citation:** Skyline Living v Chen, 2023 ONLTB 19464

**Date:** 2023-02-07

**File Number:** LTB-L-033744-22

**In the matter of:** 302, 3165 RUSSELL ST WINDSOR  
ON N9C4E1

**Between:** Skyline Living Landlord

**And**

Pengwei Chen and Zexin Chen Tenant

Skyline Living (the 'Landlord') applied for an order to terminate the tenancy and evict Pengwei Chen and Zexin Chen (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

The Landlord also claimed charges related to NSF cheques

This application was heard by videoconference on January 31, 2023.

Only the Landlord's agent, Maria Ceglie, attended the hearing.

As of 1:44pm, 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:**

**PRELIMINARY ISSUE: ARE THE TENANTS IN POSSESSION?**

1. At the hearing, the Landlord's agent advised that the first-named Tenant surrendered keys to the rental unit on January 24, 2023; on this, the Tenant advised that the second-named Tenant had moved out of the rental unit in January/February 2022.
2. The Landlord sought a standard order as there were many items that remained in the rental unit.

3. Based on the evidence before the Board, I find that the Tenants were no longer in possession of the rental unit after January 24, 2023. I say this based on the Landlord's own evidence. While the Landlord indicates that the rental unit is not empty, the fact that the leaseholders surrendered their keys is indicative of their intention to give up possession of the rental unit and all that remains in it.
4. As such, an order shall issue up to the day the Tenants vacated the rental unit.

**L1 APPLICATION**

5. 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.
6. The Tenant was in possession of the rental unit on the date the application was filed.
7. The Tenant vacated the rental unit on January 24, 2023. Rent arrears are calculated up to the date the Tenant vacated the unit.
8. The lawful rent is \$1,067.60. It was due on the 1st day of each month.
9. The Tenant has paid \$5,714.52 to the Landlord since the application was filed.
10. The rent arrears owing to January 24, 2023 are \$3,116.46.
11. The Landlord is entitled to \$200.00 to reimburse the Landlord for administration charges and \$0.00 for bank fees the Landlord incurred as a result of 10 cheques given by or on behalf of the Tenant which were returned NSF.
12. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
13. The Landlord collected a rent deposit of \$1,067.60 from the Tenant and this deposit is still being held by the Landlord. The rent deposit is applied to the arrears of rent because the tenancy terminated.
14. Interest on the rent deposit, in the amount of \$26.18 is owing to the Tenant for the period from February 1, 2022 to January 24, 2023.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenant is terminated as of January 24, 2023, the date the Tenant moved out of the rental unit
2. The Tenant shall pay to the Landlord \$2,408.68. This amount includes rent arrears owing up to the date the Tenant moved out of the rental unit and the cost of filing the application and unpaid NSF charges. The rent deposit and interest the Landlord owes on the rent deposit is deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.

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3. If the Tenant does not pay the Landlord the full amount owing on or before February 18, 2023, the Tenant will start to owe interest. This will be simple interest calculated from February 19, 2023 at 5.00% annually on the balance outstanding.

**February 7, 2023**  
**Date Issued**

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Sonia Anwar-Ali  
Member, Landlord and Tenant Board

15 Grosvenor St, 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.

**Schedule 1  
SUMMARY OF CALCULATIONS**

**A. Amount the Tenant must pay as the tenancy is terminated**

Rent Owing To Move Out Date	\$8,830.98
Application Filing Fee	\$186.00
NSF Charges	\$200.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$5,714.52
<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	- \$1,067.60
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$26.18
<b>Less</b> the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total amount owing to the Landlord</b>	<b>\$2,408.68</b>