



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

Citation: Paul v Bingelman, 2023 ONLTB 17945

Date: 2023-02-03

File Number: LTB-L-041660-22

In the matter of: Main and Upstairs, 825 Cartref Avenue Oshawa
Ontario L1J7N1

Between: Saima Paul Landlord

And

Donna Mae Bingelman Tenant

Saima Paul (the 'Landlord') applied for an order to terminate the tenancy and evict Donna Mae Bingelman (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 26, 2023.

Only the Landlord's Legal Representative Berkan Altun attended the hearing.

As of 9:55 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. Since the Tenant did not attend and the Landlord was prepared to proceed, the matter proceeded by way of an uncontested hearing pursuant to section 7 of the *Statutory Powers Procedure Act*, R.S.O. 1990.

Determinations:

1. At the hearing the Landlord's Legal Representative relied on oral submissions and referred to documents to support their application.

L1 Application

2. 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.
3. The Tenant was in possession of the rental unit on the date the application was filed.

4. The Tenant vacated the rental unit on February 27, 2022. Rent arrears are calculated up to the date the Tenant vacated the unit.
5. The lawful rent is \$2,146.50. It was due on the 1st day of each month.
6. The Tenant has not made any payments since the application was filed.
7. The rent arrears owing to February 27, 2022 are \$3,315.84.

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8. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlord collected a rent deposit of \$2,146.50 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.
10. Interest on the rent deposit, in the amount of \$19.12 is owing to the Tenant for the period from June 2, 2020 to February 27, 2022.

L2 Application

11. Since the Tenant had vacated the rental unit by the day of the hearing, the Landlord requested consent of the Board to withdraw their L2 application. Pursuant to section 200(4) of the *Residential Tenancies Act, 2006* (the Act), I consented to the request.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of February 27, 2022, the date the Tenant moved out of the rental unit
2. The Tenant shall pay to the Landlord \$1,351.22. 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. 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.
3. If the Tenant does not pay the Landlord the full amount owing on or before February 14, 2023, the Tenant will start to owe interest. This will be simple interest calculated from February 15, 2023 at 5.00% annually on the balance outstanding.
4. The Landlord's L2 application is dismissed.

February 3, 2023
Date Issued

John Cashmore
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.

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**Schedule 1
SUMMARY OF CALCULATIONS**

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

| | |
|---|-------------------|
| Rent Owing To Move Out Date | \$3,315.84 |
| Application Filing Fee | \$201.00 |
| Less the amount of the last month's rent deposit | - \$2,146.50 |
| Less the amount of the interest on the last month's rent deposit | - \$19.12 |
| Total amount owing to the Landlord | \$1,351.22 |

2023 ONL TB 17945 (CanLII)