



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

**Citation:** Ferraccioli v Peaire, 2023 ONLTB 18115

**Date:** 2023-02-02

**File Number:** LTB-L-040969-22

**In the matter of:** 3, 21 MONTCLAIR CRESCENT SIMCOE  
ONTARIO N3Y4P1

**Between:** Andrew John Ferraccioli Landlords  
Faye Laura Ferraccioli

**And**

William Peaire Sr. Tenant

Andrew John Ferraccioli and Faye Laura Ferraccioli (the 'Landlords') applied for an order to terminate the tenancy and evict William Peaire Sr. (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes. **This is the L1 application.**

The Landlords also applied for an order requiring the Tenant to pay the Landlords' reasonable out-of-pocket expenses that are the result of the Tenant's failure to pay utility costs they were required to pay under the terms of the tenancy agreement. **This is the L2 Application.**

At the hearing, the application was amended to remove the Tenant, William Josh Peaire Jr., as he is deceased.

This application was heard by videoconference on January 11, 2023.

The Landlord's Legal Representative, Eduarda Tereso, attended the hearing. Tyler Wright (TW) attended the hearing as a witness for the Landlord.

As of 1:35 p.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:**

**L1 Application**

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 \$801.05. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$26.34. This amount is calculated as follows: \$801.05 x 12, divided by 365 days.
5. The Tenant has paid \$8,198.55 to the Landlord since the application was filed.
6. The rent arrears owing to January 31, 2023 are \$2,024.16.
7. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.
8. There is no last month's rent deposit.
9. The Landlord's Legal Representative submitted that the Landlords are unaware of any circumstances of the Tenant that would cause the termination of the tenancy to be delayed or denied. The Tenant did not attend the hearing to give evidence of their circumstances.
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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

**L2 Application**

11. TW offered testimony that the Tenant has not paid the water bill in accordance with the tenancy agreement. He testified the total amount owing is \$2,224.73.
12. The Landlords' Legal Representative submitted letters from Norfolk County in which the Landlords were advised the following unpaid invoices were applied to their tax roll:

|                   |            |
|-------------------|------------|
| October 7, 2021   | \$1,859.73 |
| June 8, 2022      | \$ 102.41  |
| August 3, 2022    | \$ 134.56  |
| September 2, 2022 | \$ 128.00  |

13. The Landlords are not seeking termination for breach of the tenancy agreement but an order for out-of-pocket expenses for the unpaid utility bills. As such, an order for these expenses shall be issued.

**It is ordered that:**

**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:**
  - \$3,026.21 if the payment is made on or before February 13, 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 13, 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 13, 2023.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$1,713.85. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$26.34 per day for the use of the unit starting January 12, 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 13, 2023, the Tenant will start to owe interest. This will be simple interest calculated from February 14, 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 February 13, 2023, then starting February 14, 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 February 14, 2023.

## **L2 Application**

11. The Tenant shall pay to the Landlord \$2,224.73 for out-of-pocket expenses relating to the unpaid water bills.
12. If the Tenant does not pay the Landlord the full amount owing on or before February 13, 2023, the Tenant will start to owe interest. This will be simple interest calculated from February 14, 2023 at 5.00% annually on the balance outstanding.

**February 2, 2023**  
**Date Issued**

\_\_\_\_\_  
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 August 14, 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 13, 2023**

|  |                   |
|--|-------------------|
| Rent Owing to February 28, 2023  | \$11,023.76       |
| Application Filing Fee   | \$201.00          |
| NSF Charges  | \$0.00            |
| <b>Less</b> the amount the Tenant paid to the Landlord since the application was filed | - \$8,198.55      |
| <b>Less</b> the amount the Tenant paid into the LTB since the application was filed    | - \$0.00          |
| <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 the Tenant must pay to continue the tenancy</b>                               | <b>\$3,026.21</b> |

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

|  |                      |
|--|----------------------|
| Rent Owing to Hearing Date   | \$9,711.40           |
| Application Filing Fee   | \$201.00             |
| NSF Charges  | \$0.00               |
| <b>Less</b> the amount the Tenant paid to the Landlord since the application was filed | - \$8,198.55         |
| <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                                | - \$                 |
| <b>Less</b> the amount of the interest on the last month's rent deposit                | - \$0.00             |
| <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>\$1,713.85</b>    |
| Plus daily compensation owing for each day of occupation starting January 12, 2023     | \$26.34<br>(per day) |