



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

**Citation:** Bluebird Apartments v Bischof, 2023 ONLTB 17853

**Date:** 2023-01-31

**File Number:** LTB-L-028053-22

**In the matter of:** 918, 195 NATCHEZ RD  
KITCHENER ON N2B1W2

**Between:** Bluebird Apartments and M. Schiketanz Real Landlords  
Estate Inc.

### **And**

Jerry Bischof

Tenant

Bluebird Apartments and M. Schiketanz Real Estate Inc. (the 'Landlords') applied for an order to terminate the tenancy and evict Jerry Bischof (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 17, 2023.

Only the Landlords' Representative E. Schroeder attended the hearing.

As of 1:29 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 Landlords' evidence.

### **Determinations:**

1. The Landlords served the Tenant with a valid Notice to End Tenancy Early for Nonpayment 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 was \$1,219.45. It changed to \$1,234.08 on June 1, 2022. It is due on the first day of each month.

4. Based on the Monthly rent, the daily rent/compensation was \$40.09. This amount is calculated as follows: \$1,219.45 x 12, divided by 365 days. The daily rent/compensation is \$40.57 and is calculated as follows: \$1,234.08 x 12 divided by 365 days.
5. The Tenant made payments of \$6,044.48 since the application was filed.
6. The rent arrears owing to January 31, 2023 are \$7,457.82.
7. The Landlords incurred costs of \$186.00 for filing the application and are entitled to reimbursement of those costs.
8. There is no last month's rent deposit.
9. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

**It is ordered that:**

1. The tenancy between the Landlords 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 Landlords or to the LTB in trust:**
  - \$7,643.82 if the payment is made on or before January 31, 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 11, 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 11, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlords \$7,099.43. 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 Landlords compensation of \$40.57 per day for the use of the unit starting January 18, 2023 until the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlords the full amount owing on or before February 11, 2023, the Tenant will start to owe interest. This will be simple interest calculated from February 12, 2023 at 5.00% annually on the balance outstanding.
8. The Landlords 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 11, 2023, then starting February 12, 2023, the Landlords 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 Landlords on or after February 12, 2023.

**January 31, 2023**

**Date Issued**

\_\_\_\_\_  
William Greenberg

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 12, 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 January 31, 2023**

|  |                   |
|--|-------------------|
| Rent Owing To January 31, 2023   | \$7,457.82        |
| Application Filing Fee   | \$186.00          |
| NSF Charges  | \$0.00            |
| <b>Less</b> the amount the Tenant paid to the Landlord since the application was filed | - \$0.00          |
| <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>\$7,643.82</b> |

**B.**

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

|  |                      |
|--|----------------------|
| Rent Owing To Hearing Date   | \$6,913.43           |
| Application Filing Fee   | \$186.00             |
| NSF Charges  | \$0.00               |
| <b>Less</b> the amount the Tenant paid to the Landlord since the application was filed | - \$0.00             |
| <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>\$7,099.43</b>    |
| Plus daily compensation owing for each day of occupation starting January 18, 2023     | \$40.57<br>(per day) |