



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

Citation: 2131313 Ontario Ltd. v Mitchell, 2023 ONLTB 17512

Date: 2023-01-30

File Number: LTB-L-014131-22

In the matter of: 206 McGivern Street
Walkerton ON N0G2V0

Between: 2131313 Ontario Ltd. and Angie Fotheringham Landlords

And

Gabriella Mitchell Tenant

2131313 Ontario Ltd. and Angie Fotheringham (the 'Landlords') applied for an order to terminate the tenancy and evict Gabriella Mitchell (the 'Tenant') because:

- the Tenant did not pay the rent that the Tenant owes, (L1 application) and
- the Landlords require possession of the rental unit in order to demolish the unit (L2 application).

This application was heard by videoconference on January 23, 2023.

Only the Landlords Angie and Troy Fotheringham attended the hearing

As of approximately 12:00 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 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. The Tenant was in possession of the rental unit on the date the application was filed.
3. The Tenant vacated the rental unit on August 5, 2022. Rent arrears are calculated up to the date the Tenant vacated the unit.
4. The lawful rent is \$1,400.00. It was due on the 1st day of each month.
5. The Tenant has not made any payments since the application was filed.

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6. The L1/L9 update sheet was amended at the hearing due to clerical error to reflect arrears owing to August 5, 2022 in the amount of \$8,600.00. This includes the credit given to the Tenant for 1 month's rent in compensation for the N13 Notice.
7. The rent arrears owing to August 5, 2022 are \$8,600.00.
8. The Landlords incurred costs of \$201.00 for filing the application and are entitled to reimbursement of those costs.
9. The Landlords collected a rent deposit of \$825.00 from the Tenant, but by agreement of the parties the deposit was applied to an earlier month of rent and is no longer held by the Landlords.
10. Because the Tenant is no longer in possession of the rental unit, the L2 application for termination of the tenancy and eviction in order to demolish the unit is dismissed.

It is ordered that:

1. The tenancy between the Landlords and the Tenant is terminated as of August 5, 2022, the date the Tenant moved out of the rental unit
2. The Tenant shall pay to the Landlords \$8,801.00. 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. See Schedule 1 for the calculation of the amount owing.
3. If the Tenant does not pay the Landlords the full amount owing on or before February 10, 2023, the Tenant will start to owe interest. This will be simple interest calculated from February 11, 2023 at 5.00% annually on the balance outstanding.

January 30, 2023

Date Issued

Margo den Haan

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	\$8,600.00
Application Filing Fee	\$201.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Total amount owing to the Landlord	\$8,801.00

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