



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

**Citation:** Menon v Fletcher, 2023 ONLTB 16250

**Date:** 2023-01-19

**File Number:** LTB-L-015431-22

**In the matter of:** 10 LABRISH RD  
BRAMPTON ON L7A5C2

**Between:** Aswathi Menon Landlord

**And**

Camille Fletcher Tenant

Aswathi Menon (the 'Landlord') applied for an order to terminate the tenancy and evict Camille Fletcher (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on December 12, 2022.

The Landlord, the Landlord's representative Yvette Bailey and the Tenant attended the hearing.

**Determinations:**

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 \$2,500.00. It is due on the 1st day of each month.
4. Based on the evidence, I am satisfied on a balance of probabilities that as of the hearing date, the Tenant owed the Landlord \$14,511.29., including arrears of rent to December 31, 2022. Since the hearing, one months' rent has become due and that rent is included in the total owing in this order. Accordingly, as of the date of this order, the Tenant owes the Landlord \$17,197.29, including arrears of rent to January 31, 2023 and the application filing fee. If, since the hearing, the Tenant paid the Landlord rent or made any other payments to the Landlord, the Landlord shall deduct those payments from the total owing in this order.
5. Based on the Monthly rent, the daily rent/compensation is \$82.19. This amount is calculated as follows: \$2,500.00 x 12, divided by 365 days.
6. The Tenant has paid \$13,808.50 to the Landlord since the application was filed.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

8. There is no last month's rent deposit.
9. The Landlord testified that the arrears are causing her significant financial stress and hardship because of growing mortgage interest costs on the property totalling now \$5,000.00 per month inclusive of property taxes, and that she relies on the rent to pay the mortgage on the rental property. She has maxed out various lines of credit to make payments on the property and is on the brink of foreclosure given that the Tenant has not paid any rent since August 2022. The Landlord has reached out to the Tenant prior to arrears growing to the current level in an effort to assist her in finding alternative accommodations and advised her that her own financial situation is causing her to evaluate the sale of the property as it is no longer affordable for her to carry in light of the tenants' non-payment of rent.
10. The Tenant submitted that she has been greatly impacted by COVID, specifically that she had separated from her husband, lost her job and her own business. The Tenant submitted that while it is not her intention not to pay rent to the landlord she has experienced health setbacks, has a daughter and step son who had experienced a mental health crisis and that she has been looking for employment since April 2022. At the time of the hearing the Tenant was an ODSP recipient, and even though she has attempted to source alternative housing her options are limited. She submitted that while she would like to remain in the rental unit she asked for a 30 day delay in relief from eviction for the Board's consideration.

### **Section 83 Considerations**

11. 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. Specifically, I considered Landlord's submissions about various attempts to negotiation with the Tenant, concessions made to accept either partial payment of rent or a late payment of rent and offering the Tenant assistance to secure alternative housing. Under section 83 of the Act, I also considered that the arrears are significant. Finally, I considered the Tenant's personal circumstances and submission that based on the limited household income she is simply not able to pay the monthly rent until such time that she finds suitable employment. Based on the passage of time since the hearing and the issuance of this order, any further delay in eviction would pose to be prejudicial to both parties, the Landlord not being able to collect rent and the Tenant falling into further arrears as the rent is not affordable.

### **It is ordered that:**

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:**

- \$17,197.29 if the payment is made on or before January 30, 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 January 30, 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 January 30, 2023**
  5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$13,135.68. 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 \$82.19 per day for the use of the unit starting December 13, 2022 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 January 30, 2023, the Tenant will start to owe interest. This will be simple interest calculated from January 31, 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 January 30, 2023, then starting January 31, 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 January 31, 2023.

**January 19, 2023**  
**Date Issued**

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 Alicia Johnson  
 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 July 31, 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 30, 2023**

Rent Owing To January 31, 2023	\$30,819.79
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	- \$13,808.50
<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>\$17,197.29</b>

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

Rent Owing To Hearing Date	\$26,758.18
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	- \$13,808.50
<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>\$13,135.68</b>
Plus daily compensation owing for each day of occupation starting December 13, 2022	\$82.19 (per day)