



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

**Citation:** 505551 Ontario Ltd v Seeley, 2023 ONLTB 16082

**Date:** 2023-01-18

**File Number:** LTB-L-011795-22

**In the matter of:** 302, 19C HIGH ST  
FORT ERIE ON L2A5W9

**Between:** 505551 Ontario Ltd Landlord

**And**

James Seeley Tenant

505551 Ontario Ltd (the 'Landlord') applied for an order to terminate the tenancy and evict James Seeley (the 'Tenant') because the Tenant has been persistently late in paying the Tenant's rent.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on January 10, 2023.

The Landlord's Representative Faith McGregor and the Tenant attended the hearing.

**Determinations:**

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On February 17, 2022, the Landlord gave the Tenant an N8 notice of termination deemed served on February 22, 2022. The notice of termination alleges that the Tenant has consistently paid their rent late.
4. The Tenant has persistently failed to pay the rent on the date it was due. The rent is due on the 1 day of each month. The rent has been paid late 15 times in the past 23 months. The Tenant has paid their rent late:
  - March 2021
  - July 2021
  - August 2021
  - September 2021
  - No rent January 2022
  - No rent February 2022
  - Partial rent March 2022
  - Partial rent in April 2022

- Partial rent in May 2022
  - No rent in June 2022
  - No rent in July 2022
  - No rent in August 2022
  - No rent in September 2022
  - No rent in December 2022
  - No rent in January 2023
5. The Landlord's Representative submitted that the Landlord has sent reminders to the Tenant about the missing or late rent payments on January 5, 2022, May 4, 2022, June 14, 2022, July 2, 2022, and August 2022.
  6. The Tenant does not contest that their rent has been paid late or that they are in arrears. The Tenant testified that his mother lives with him and she has serious health issues resulting in her currently being in the hospital. The Tenant testified that he lost access to his mother's bank account and that has prohibited him from making rent payments.
  7. The Tenant requested relief from eviction in the form of a pay on time order. The Landlord was opposed. I have decided not to grant relief from eviction in the form of a pay on time because the Tenant has already been given a similar order and breached it. The Landlord filed an L1 application for non-payment of rent that resulted in order LTB-L-013951-22. That order imposed a conditional payment plan and was issued on October 26, 2022. The Tenant did not make those payments. Additionally, the Tenant has not paid rent since December 2022. As such I am not satisfied that the Tenant would abide by a pay on time order.
  8. 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 not be unfair to postpone the eviction until February 15, 2023 pursuant to subsection 83(1)(b) of the Act. In making that determination I have considered that the Tenant's mother suffers from serious health issues and that the Tenant does not have reliable hours at work. Postponing the eviction will give the Tenant and his mother time to find new living arrangements. The Landlord's Representative submitted that the Tenants late payment affects the Landlord's ability to deal with their lender and staff obligations. As such, I have declined to postpone the eviction any further than February 15, 2023 because of the consistent pattern of late payments and the potential prejudice that a further delayed eviction would have on the Landlord.
  9. The monthly rent increased in January 2023 and is now \$1,135.40. The daily compensation rate is now \$37.32. This amount is calculated as follows:  $\$1,135.40 \times 12$ , divided by 365 days.
  10. The Tenant was required to pay the Landlord \$9,296.31 in daily compensation for use and occupation of the rental unit for the period from May 1, 2022 to January 10, 2023. Any rent already paid by the Tenant can be subtracted from that amount. Any arrears ordered in any other judgement for this same period is also to be subtracted from that amount.
  11. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

12. The Landlord collected a rent deposit of \$1,094.80 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$0.75 is owing to the Tenant for the period from January 1, 2023 to January 10, 2023.
13. In accordance with subsection 106(10) of the *Residential Tenancies Act, 2006*, (the 'Act') the last month's rent deposit shall be applied to the rent for the last month of the tenancy.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before February 15, 2023.
2. If the unit is not vacated on or before February 15, 2023, then starting February 16, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. 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 16, 2023.
4. The Tenant shall pay to the Landlord \$9,296.31, which represents compensation for the use of the unit from May 1, 2022 to January 10, 2023. Any rent already paid by the Tenant can be subtracted from that amount. Any arrears ordered in any other judgement for this same period is also to be subtracted from that amount.
5. The Tenant shall also pay the Landlord compensation of \$37.32 per day for the use of the unit starting January 11, 2023 until the date the Tenant moves out of the unit.
6. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
7. If the Tenant does not pay the Landlord the full amount owing on or before February 15, 2023, the Tenant will start to owe interest. This will be simple interest calculated from February 16, 2023 at 5.00% annually on the balance outstanding.
8. The Landlord is to apply the last month's rent deposit in accordance with the Act.

**January 18, 2023**  
**Date Issued**

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 Amanda Kovats  
 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 of the Tenant expires on August 16, 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.

