



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

Citation: Drapeau v Mercier, 2023 ONLTB 15385

Date: 2023-01-18

File Number: LTB-L-023655-22

In the matter of: Upstairs, 123 Calvert Street
Iroquois Falls ON P0K1G0

Between: Brian Drapeau Landlords
Joni Drapeau

And

Andre Mercier Tenant

Brian Drapeau and Joni Drapeau (the 'Landlord') applied for an order to terminate the tenancy and evict Andre Mercier (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 4, 2023.

The second-named Landlord attended the hearing and was self-represented.

As of 3:24 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:

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. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$850.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$27.95. This amount is calculated as follows: \$850.00 x 12, divided by 365 days.
5. The Tenant has paid \$7,650.00 to the Landlords since the application was filed.
6. The rent arrears owing to January 31, 2023 are \$1,700.00.
7. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

8. The Landlord collected a rent deposit of \$850.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
9. Interest on the rent deposit, in the amount of \$65.57 is owing to the Tenant for the period from January 3, 2018 to January 4, 2023.
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 Landlords attempted to negotiate a repayment agreement with the Tenant and find that it would not be unfair to grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.

It is ordered that:

1. The Tenant shall pay to the Landlords \$1,886.00, which represents the arrears of rent (\$1,700.00) and costs (\$186.00) outstanding for the period ending December 31, 2022.
2. The Landlords application for eviction of the Tenant is denied on the condition that:
 - (a) The Tenant shall make the following payments to the Landlords in respect of the monies owing under paragraph 1 of this order:
 1. Beginning on or before January 25, 2023, the Tenant shall pay the Landlord \$300.00;
 2. The Tenant shall continue to pay the Landlord \$300.00 per month on or before the 25th day of each month during the period of February 25, 2023, to June 23, 2023;
 3. The Tenant shall also pay the Landlords \$86.00 on or before July 23, 2023.
 - (b) The Tenant shall also pay the Landlords the lawful monthly rent as it becomes due on or before the 1st day of the month starting February 1, 2023 until the arrears are paid in full.
3. If the Tenant fails to make any of the payments in accordance with paragraph 2, and by the dates required, then:
 - (a) The Landlords may apply, without notice to the Tenant, under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenant, and for the payment of any new arrears of rent and NSF charges not already ordered under paragraph 1 of this order. The Landlords must make the application within 30 days of a breach of a condition set out in paragraph 2 of this order.

- (b) The balance owing under paragraph 1 of this order shall become payable on the day following the date of default. The monies shall bear interest at the post-judgement interest rate determined under subsection 207(7) of the Act.

January 18, 2023

Date Issued

Emile Ramlochan
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.