



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

**Citation:** Tower Investments Inc. v Dunsmore, 2023 ONLTB 14731

**Date:** 2023-01-17

**File Number:** LTB-L-024223-22

**In the matter of:** 24, 165 DORSET ST E  
PORT HOPE ON L1A0A9

**Between:** Tower Investments Inc. Landlord

**And**

Craig Dunsmore Tenant

Tower Investments Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Craig Dunsmore (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

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

Only the Landlord's Agents Jennifer Masales and Tyler Woods attended the hearing.

As of 9:42 a.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 lawful rent is \$643.13. It is due on the 1st day of each month.
2. Based on the Monthly rent, the daily rent/compensation is \$21.14. This amount is calculated as follows: \$643.13 x 12, divided by 365 days.
3. The Tenant has paid \$2,050.00 to the Landlord since the application was filed.
4. The rent arrears owing to January 31, 2023 are \$5,222.41.
5. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

6. The Landlord collected a rent deposit of \$620.00 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.
7. Interest on the rent deposit, in the amount of \$11.56 is owing to the Tenant for the period from September 30, 2020 to January 4, 2023.

*Defective N4 Notice of Termination*

**File Number:** LTB-L-024223-22

8. At the outset of the hearing I asked the Landlord why the “Rent Period” section on page 2 of the N4 Notice of Termination shows rent for August 2021 as due, despite the fact that Board order TEL-19676-21, dated October 5, 2021, states that the Landlord’s last application for rent arrears was discontinued up to August 31, 2021. Landlord’s Agent J. Masales stated that the old order is wrong because, as per the Landlord’s ledger, the Tenant had reached a zero balance in July 2021. Since the Landlord did not appeal the order, I find that the order stands as correct, which means that the N4 is defective as the dates and the rent arrears mentioned on page 2 are incorrect.
9. The *Residential Tenancies Act, 2006* (the “Act”) at section 59(2) requires particular contents of an N4 Notice of Termination, which includes the requirement that the amount of rent shall be specified. Given the dates and the amount contained in the N4 Notice of Termination, the period of rent arrears claimed is incorrect as per the last order and does not properly reflect the exact periods of monthly rent that are allegedly owed. Also, the rent arrears mentioned include August 2021 rent. Since the N4 Notice did not properly give the Tenant the opportunity to understand what specific periods of alleged rent arrears and the total rent arrears, were being claimed, the N4 Notice is rendered invalid.

*Amending L1 Application to L9 Application for Arrears and Costs Only*

10. As a result of the defects with the N4 Notice, the options were explained to the Landlord including the possibility of requesting consent to withdraw this L1 Application to correct the N4 Notice, which may lead to filing a new L1 Application if they wish to pursue eviction based on these periods of rent arrears. After considering the time that has elapsed since the N4 notice was served and the time it has taken to arrive at today’s hearing date, the Landlord requested to convert this application to an L9 application for arrears only, without seeking eviction. I consented to their request to seek only arrears: see *Nejad v Preddie*, 2016 ONSC 4348 (Div. Ct.).

**It is ordered that:**

1. The Tenant shall pay to the Landlord \$5,098.41 which represents the amount of rent arrears owing between September 01, 2021 and January 31, 2023. August 2021 rent arrears claimed in the amount of \$310.00 have been excluded from the calculations. This amount includes the application filing fee in the amount of \$186.00. See Schedule 1 for the summary of calculations.
2. If the Tenant does not pay the Landlord the full amount owing on or before January 28, 2023, the Tenant will start to owe interest. This will be simple interest calculated from January 29, 2023 at 5.00% annually on the balance outstanding.

**January 17, 2023**

**Date Issued**

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Sheena Brar

Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor  
Toronto ON M7A 2G6

**File Number: LTB-L-024223-22**

**Schedule 1  
SUMMARY OF CALCULATIONS**

**A. Amount the Tenant must pay to the Landlord if the payment is made on or before January 21, 2023**

Rent Owing To January 31, 2023	\$6,962.41
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	- \$2,050.00
<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>\$5,098.41</b>