



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** Metcap Living Management Inc v Butoyi, 2023 ONLTB 14358

**Date:** 2023-01-12

**File Number:** LTB-L-024287-22

**In the matter of:** 101, 45 GREENCREST CIRCT  
SCARBOROUGH ON M1G1B9

**Between:** Metcap Living Management Inc

Landlord

**And**

Hussein Butoyi

Tenant

Metcap Living Management Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Hussein Butoyi (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 legal representative, Michelle Forrester, 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 \$1,301.30. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$42.78. This amount is calculated as follows: \$1,301.30 x 12, divided by 365 days.
5. The Tenant has paid \$11,776.67 to the Landlord since the application was filed.
6. The rent arrears owing to January 31, 2023 are \$163.71.
7. The Landlord 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 \$1,305.19 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 \$16.02 is owing to the Tenant for the period from January 1, 2022 to January 4, 2023.

10. The Landlord's legal representative submitted the Tenant has lived in the rental unit since April 2011. The Landlord's legal representative submitted the Tenant has made substantial payments towards rent and arrears since the application was filed with the Board and arrears before the filing fee outstanding are in the amount of \$163.71, and not a significant amount owing. In my view, the long standing tenure of the Tenant, and the small amount of arrears owing, the Tenant should have an extended time in order to pay off the arrears and the filing fee owing to the Landlord. I am granting the Landlord's request for eviction, however I find it not unreasonable given the circumstances to delay the request by the Landlord, giving the Tenant more time to pay the arrears in full.
11. 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 January 31, 2023 pursuant to subsection 83(1)(b) of the Act.

**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:
  - \$349.71 if the payment is made on or before January 31, 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 31, 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 31, 2023
5. As of the date of the hearing, the amount of the rent deposit and interest the Landlord owes on the rent deposit exceeds the arrears of rent, compensation and the cost of filing the application the Landlord is entitled to by \$2,101.68. See Schedule 1 for the calculation of the amount owing. However, the Landlord is authorized to deduct from the amount owing to the Tenant \$42.78 per day for compensation for the use of the unit starting January 5, 2023 until the date the Tenant moves out of the unit.
6. If the Tenant does not pay the Landlord the full amount owing on or before January 23, 2023, the Tenant will start to owe interest. This will be simple interest calculated from January 24, 2023 at 5.00% annually on the balance outstanding.
7. If the unit is not vacated on or before January 31, 2023, then starting February 1, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.

8. 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 1, 2023.

**January 12, 2023**

**Date Issued**

\_\_\_\_\_  
Greg Brocanier

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 August 1, 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 31, 2023**

Rent Owing To January 31, 2023	\$11,940.38
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	- \$11,776.67
<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>\$349.71</b>

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

Rent Owing To Hearing Date	\$10,810.20
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	- \$11,776.67
<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	- \$1,305.19
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$16.02
<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>\$(2,101.68)</b>
Plus daily compensation owing for each day of occupation starting January 5, 2023	\$42.78 (per day)

