



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

Citation: Hedican v Cho, 2023 ONLTB 14299

Date: 2023-01-11

File Number: LTB-L-001725-21

In the matter of: Room 3 Upper Unit, 122 CONROY CRES
GUELPH ON N1G2V6

Between: Tara Hedican Landlord

And

Hyeongmin (Min) Cho Tenant

Tara Hedican (the 'Landlord') applied for an order to terminate the tenancy and evict Hyeongmin (Min) Cho (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes (L1 Application).

Tara Hedican (the 'Landlord') also applied for an order to terminate the tenancy and evict Hyeongmin (Min) Cho (the 'Tenant') because:

- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant;
- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully or negligently caused damage to the premises.

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

Tara Hedican (the 'Landlord') also applied for an order requiring Hyeongmin (Min) Cho (the 'Tenant') to pay the Landlord's reasonable out-of-pocket costs the Landlord has incurred or will incur to repair or replace undue damage to property. The damage was caused wilfully or negligently by the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex (L2 Application).

Tara Hedican (the 'Landlord') also applied for an order requiring Hyeongmin (Min) Cho (the 'Tenant') to pay the Landlord's reasonable out-of-pocket expenses that are the result of the Tenant's conduct or that of another occupant of the rental unit or someone the Tenant permitted in the residential complex. This conduct substantially interfered with the Landlord's reasonable enjoyment of the residential complex or another lawful right, privilege or interest (L2 Application).

This application was heard by videoconference on July 25, 2022.

The Landlord and the Tenant attended the hearing

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Determinations:

L2 APPLICATION

1. At the hearing, the Landlord sought to withdraw the L2 application, and the LTB consented to the request.

L1 APPLICATION

2. 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.
3. The Tenant was in possession of the rental unit on the date the application was filed.
4. The Tenant vacated the rental unit on April 9, 2022. Rent arrears are calculated up to the date the Tenant vacated the unit.
5. The lawful rent is \$600.00. It was due on the first day of each month.
6. It was undisputed that the Tenant failed pay any rent from December 2021 to April 2022.
7. The Landlord testified that in September 2021 the Tenant paid \$100.00 in cash. The Tenant disputed this, claiming that he paid the full amount. There was no evidence to support his claim that any additional payments were made by the Tenant.
8. The rent for March 2022 was waived in lieu of one month's rent as compensation due with the N12 Notice of Termination. The Tenant agreed.
9. The Landlord testified that in October 2021 the Tenant paid \$100.00 in cash, the Tenant disputed this, claiming that on October 3, 2022 he paid \$1,000.00 in cash to Ben, the Landlord's property manager. The Tenant submitted that the \$1,000.00 was partial rent for the Tenant and his brother. The Tenant provided a copy of his bank statement, which shows a withdrawal of \$1,000.00 along with a text message to the Landlord which states:

"my daily limit was only \$1000, I will drop by tomorrow to give you the rest. I gave it to Ben". The Landlord responded by saying "thanks".
10. On October 7, 2021 the Tenant sent a subsequent text message which states:

"When are you available today? I will give you the rest. Sorry I was busy for a couple of days".
11. There was no response from the Landlord to suggest that she didn't receive the \$1,000.00, and the contents of the second text suggest that a payment was made on October 3, 2021 with "the rest" being made on October 7, 2021. Therefore, I find it is more reasonable than not that the Tenant paid the rent due for October 2021.
12. The rent arrears owing to April 9, 2022 are \$2,627.57.
13. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

14. There is no last month's rent deposit.

SECTION 82 CLAIMS

15. The Tenant raised issues relating to repair work to the rental unit and the thermostat.
16. Pursuant to section 20. (1) A landlord is responsible for providing and maintaining a residential complex, including the rental units in it, in a good state of repair and fit for habitation and for complying with health, safety, housing and maintenance standards.
17. The parties agreed that the work related to the flooring and the kitchen was required.
18. The Tenant testified that he was angry and believed that Landlord was selling the property because the market was good.
19. The Landlord testified that the Tenant intentionally sabotaged the repairs, causing delays and increased costs.
20. The Landlord added that the work was carried out as quickly as possible, aiming to create minimal inconvenience to the Tenants. However, on several occasions the Tenant harassed and obstructed the Landlord and contractors from carrying out the work creating much of the delays himself.
21. The Tenant disputed these claims and argued that the work took much longer than necessary and was very inconvenient making the kitchen and living room unusable.
22. The Landlord told the Board that the Tenant was out of the country for a period of time while the work was done. The Tenant was evasive on providing exact dates.
23. Based on the evidence before the Board and the oral testimony by both parties, I find that the work was necessary and done in a timely manner in the circumstances. Therefore no abatement will be awarded.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of April 9, 2022, the date the Tenant moved out of the rental unit
2. The Tenant shall pay to the Landlord \$2,813.57. This amount includes rent arrears owing up to the date the Tenant moved out of the rental unit and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
3. If the Tenant does not pay the Landlord the full amount owing on or before January 22, 2023, the Tenant will start to owe interest. This will be simple interest calculated from January 23, 2023 at 5.00% annually on the balance outstanding.

January 11, 2023
Date Issued

Natalie James
Member, Landlord and Tenant Board

15 Grosvenor St, 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.

*Note: When the LTB 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 as the tenancy is terminated

Rent Owing To Move Out Date	\$3,727.57
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed + N12 Compensation	- \$1,100.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$0.00
Less the amount of the interest on the last month's rent deposit	- \$0.00
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlord	\$2,813.57

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