



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

Citation: Chappell v Willauer, 2023 ONLTB 13789

Date: 2023-01-04

File Number: LTB-L-039985-22

In the matter of: Apt 2, 303 Regent Street
Sudbury ON P3C4C6

Between: Jamie Chappell Landlord

And

Bryce Willauer Tenant

Jamie Chappell (the 'Landlord') applied for an order to terminate the tenancy and evict Bryce Willauer (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

The Landlord also applied for an order to terminate the tenancy and evict the Tenant because:

- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully caused undue damage to the premises.

The Landlord also applied for an order requiring 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.

This application was heard by videoconference on December 20, 2022. Only the Landlord attended the hearing. As of 1:30 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:

L1 Application

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. The Tenant was in possession of the rental unit on the date the application was filed.
3. The Tenant vacated the rental unit on August 30, 2022.
4. The lawful rent is \$780.00. It was due on the 1st day of each month.
5. The Tenant has not made any payments since the application was filed.

2023 ONLTB 13789 (CanLII)

6. The rent arrears owing to August 30, 2022 are \$2,329.20. The Landlord sought rent arrears to September 30, 2022. He submitted that he could not show the unit to prospective renters due to the damage to the unit. The Landlord's request is denied. Pursuant to Interpretation Guideline 11 and section 87 of the *Residential Tenancies Act, 2006* (the 'Act'), rent arrears are calculated up to the date the Tenant vacated the unit.
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 \$780.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit is applied to the arrears of rent because the tenancy terminated.
9. Interest on the rent deposit, in the amount of \$24.49 is owing to the Tenant for the period from November 18, 2019 to August 30, 2022.

L2 Application

10. As the Tenant vacated the unit, the issue of eviction is moot. Therefore, the only live issue in the L2 application is compensation for damages.
11. The Landlord testified that the Tenant painted the walls of the rental unit bright red, yellow, green and blue. Before the Tenant vacated, he did not paint the walls to the state it was before he rented the unit. The Landlord incurred costs to repaint the unit to its original state. Submitted into evidence was a letter from the Landlord's contractor, which stated that four coats of paint were required to repaint the unit. The cost to do so was \$1,362.00.
12. Based on the uncontested evidence of the Landlord, I find that the Tenant, another occupant of the rental unit or a person whom the Tenant permitted in the residential complex wilfully or negligently caused undue damage to the rental unit or residential complex by painting the unit bright colours. I consider this undue damage as the Landlord incurred a cost to undo the Tenant's modifications to the rental unit.
13. Based on the letter from the contractor, I find that the Landlord incurred reasonable costs of \$1,362.00 to repair the damage.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of August 30, 2022, the date the Tenant moved out of the rental unit
2. The Tenant shall pay to the Landlord \$1,710.71. 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. The rent deposit and interest the Landlord owes on the rent deposit is deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.
3. The Tenant shall also pay to the Landlord \$1,362.00, which represents the reasonable costs to repair the damage.

4. If the Tenant does not pay the Landlord the full amount owing on or before January 15, 2023, the Tenant will start to owe interest. This will be simple interest calculated from January 16, 2023 at 5.00% annually on the balance outstanding.

January 4, 2023

Date Issued

Camille Tancioco

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	\$2,329.20
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
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	- \$780.00
Less the amount of the interest on the last month's rent deposit	- \$24.49
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	\$1,710.71

2023 ONL TB 13789 (CanLII)