



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** Thakkar v Botticella, 2022 ONLTB 14655

**Date:** 2022-12-07

**File Number:** LTB-L-023146-22

**In the matter of:** 109, 8830 WILLOUGHBY DR  
NIAGARA FALLS ON L2G6X8

**Between:** Seemant Thakkar and Seemant Thakkar Landlord

**And**

Gina Botticella Tenant

Seemant Thakkar and Seemant Thakkar (the 'Landlord') applied for an order to terminate the tenancy and evict Gina Botticella (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on November 10, 2022.

Only the Landlord's representative Joesph Tonnos 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 \$1,294.35. It is due on the day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$42.55. This amount is calculated as follows: \$1,294.35 x 12, divided by 365 days.
5. The rent arrears owing to June 10, 2022 are \$4227.70
6. The Landlord collected a rent deposit of \$1,279.00 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. 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 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 for the reasons set out below.

8. On October 17, 2022 the Landlord submitted to the Board, a payment arrangement signed by both the Landlord and Tenant. Although the Tenant did not appear at the hearing to verify signing the agreement, the payment arrangement benefits the Tenant as it sets out terms avoiding termination. As such, I find, on balance, that the proposed arrangement benefits the parties.

**It is ordered that:**

1. The Tenant shall pay the Landlord \$4413.70 which represents the rent arrears owing of \$4227.70 and the \$186.00, fee paid by the Landlord for filing the application; as set out in the payment agreement below:
  - I. The Tenant shall pay to the Landlord \$350.00 the 16<sup>th</sup> day of each month from October 16, 2022 to September 16, 2023.
  - II. The Tenant shall make a final payment of \$213.70 on October 16, 2023.
2. CONSEQUENCES OF BREACH: If the Tenant does not make any of the payments required in paragraph 1 (I.)(II.) in full and on time:
  - The Landlord may apply 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 Landlord must make the application within 30 days of a breach of condition set out in paragraph 2 or 3..

**January 11, 2023**

**Date Issued**

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Maria Shaw

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.