



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

Citation: Accommod8u Inc v Brown, 2022 ONLTB 6195

Date: 2022-11-16

File Number: LTB-L-009176-22

In the matter of: UNIT 8175, 130 COLUMBIA ST W
Waterloo ON N2L0G6

Between: Accommod8u Inc Landlord

And

Devin Brown Tenant

Accommod8u Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Devin Brown (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

The Landlord also claimed charges related to NSF cheques

This application was heard by videoconference on July 6, 2022.

The Landlord's representative Gayle St. Clair(GS) and the Tenant 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. The Tenant was in possession of the rental unit on the date the application was filed.
3. The Tenant vacated the rental unit on July 6, 2022. Rent arrears are calculated up to the date the Tenant vacated the unit
4. The lawful rent is \$2,374.00. It was due on the 1st day of each month.
5. The Tenant has paid \$1,160.00 to the Landlord since the application was filed.
6. The rent arrears owing to July 6, 2022 are \$14,780.00.
7. The Landlord is entitled to \$60.00 to reimburse the Landlord for administration charges and \$0.00 for bank fees the Landlord incurred as a result of 3 cheques given by or on behalf of the Tenant which were returned NSF.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

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9. The Landlord collected a rent deposit of \$2,255.30 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.
10. Interest on the rent deposit, in the amount of \$13.87 is owing to the Tenant for the period from August 31, 2021 to July 6, 2022.
11. The Tenant disputed the rent arrears and requested to raise a number of maintenance issues pursuant to section 82 of the Residential Tenancies Act, 2006 (the 'Act').
12. GS provided detailed oral evidence regarding their discussions with the Tenant regarding the arrears and rent payment plans. The Landlord's attempts at negotiating a repayment agreement were unsuccessful.
13. GS objected to this request arguing that the Tenant did not notify the Landlord of his intention to raise these maintenance issues and that they did not know what the issues were or what relief the Tenant would be seeking.
14. Section 82 of the Act provides that at a rent arrears hearing the Board shall permit the Tenant to raise any issue that could be the subject of an application made by the tenant if the tenant provides the landlord and the Board with advance disclosure of the issue and the evidence in accordance with the Board's rules or provides an explanation satisfactory to the Board explaining why the tenant could not comply with the disclosure requirements.
15. Rule 19.4 of the Rules of Procedure of the Landlord and Tenant Board states:

“Unless the LTB directed or ordered otherwise, a tenant who intends to raise issues under sections 82(1) or 87(2) of the RTA during an application about rent arrears shall provide the other parties and the LTB the following at least 7 days before the scheduled CMH or hearing: 1. A written description of each issue the tenant intends to raise; and ...”
16. The Tenant did not explain why he did not provide the Landlords with any details about the maintenance issues he intended to raise at the hearing other than that he needed more time to do so. The evidence the Tenant wanted to rely upon was fairly extensive, and I do not find that the Landlords could have a fair hearing without knowing the case against them. Therefore, I cannot consider the Tenant's section 82 issues, but he may file his own application to have these concerns considered by the Board.
17. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenant and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of July 6, 2022, the date the Tenant moved out of the rental unit

2. The Tenant shall pay to the Landlord **\$11,596.83**. 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 and unpaid NSF charges. 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. If the Tenant does not pay the Landlord the full amount owing on or before December 04, 2022, the Tenant will start to owe interest. This will be simple interest calculated from November 28, 2022 at 2.00% annually on the balance outstanding.
4. If the Landlord does not pay the Tenant the full amount owing on or before December 04, 2022, the Landlord will start to owe interest. This will be simple interest calculated from December 05, 2022 at 2.00% annually on the balance outstanding.

November 23, 2022
Date Issued

Percy Laryea
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	\$14,780.00
Application Filing Fee	\$186.00
NSF Charges	\$60.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$1,160.00
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	- \$2,255.30
Less the amount of the interest on the last month's rent deposit	- \$13.87
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	\$11,596.83