



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

**Citation:** Kenlar Investments Inc v Sheppard, 2022 ONLTB 11789

**Date:** 2022-11-15

**File Number:** LTB-L-012294-22

**In the matter of:** 102, 161 AMHERST DR  
AMHERSTVIEW ON K7N1V3

**Between:** Kenlar Investments Inc Landlord

**And**

Philip Sheppard Tenant

Kenlar Investments Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Philip Sheppard (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on September 1, 2022.

The Landlord's Legal Representative G. Foss 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. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$710.54. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$23.36. This amount is calculated as follows: \$710.54 x 12, divided by 365 days.
5. The Tenant has paid \$3,636.16 to the Landlord since the application was filed.
6. The rent arrears owing to September 30, 2022 are \$2,738.68.
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 \$706.30 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 \$49.46 is owing to the Tenant for the period from September 1, 2017 to September 1, 2022.

Relief from Eviction

10. The Tenant testified that he held back the rent because of issue he had with the Landlord. The Tenant submitted no evidence regarding those issues. He testified that he no longer has the rent money he held back and testified that he carried on with his life.
11. The tenant testified that he could pay the arrears by paying \$100.00 extra a month until the arrears are paid in full, which would be a little over 2 years. The Tenant testified that if the payment plan is not accepted, he would need 3 months to vacate the unit.
12. The Landlord is requesting a standard order.
13. I do not believe the payment plan that the Tenant is suggesting is reasonable or appropriate in the circumstances. It would take the Tenant 2 years and 4 months to pay the arrears. The Tenant was not able to clearly articulate any circumstances that caused him to fall into arrears except to say that he held the rent back for reasons that are not properly before me. When the tenant was asked what he did with the money he held back, he testified that he "carried on with his life". I do not find that there are any circumstances that warrant granting a payment plan that lasts for over 2 years. Given the timing of this order, I find that there has been sufficient delay and no other delay shall be ordered.
14. 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 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:**
  - \$4,345.76 if the payment is made on or before November 26, 2022. 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 November 26, 2022 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 November 26, 2022**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$1,481.74. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.

6. The Tenant shall also pay the Landlord compensation of \$23.36 per day for the use of the unit starting September 2, 2022 until the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlord the full amount owing on or before November 26, 2022, the Tenant will start to owe interest. This will be simple interest calculated from November 27, 2022 at 4.00% annually on the balance outstanding.
8. If the unit is not vacated on or before November 26, 2022, then starting November 27, 2022, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
9. 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 November 27, 2022.

**November 15, 2022**

**Date Issued**

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Emily Robb

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 May 27, 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.

**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 November 26, 2022**

Rent Owing To November 30, 2022	\$7,795.92
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	- \$3,636.16
<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	- \$
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$4,345.76</b>

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

Rent Owing To Hearing Date	\$5,687.66
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	- \$3,636.16
<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	- \$706.30
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$49.46
<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	- \$
<b>Total amount owing to the Landlord</b>	<b>\$1,481.74</b>
Plus daily compensation owing for each day of occupation starting September 2, 2022	\$23.36 (per day)

