



**Order under Section 69 and utilizing Section 78
Residential Tenancies Act, 2006**

Citation: Johnson v Brown, 2022 ONLTB 11621

Date: 2022-11-15

File Number: LTB-L-017463-22

In the matter of: A, 51 WINNIETT ST
BRANTFORD ON N3T1M6

Between: Vicki Johnson Landlord

And

Michael Brown Tenant

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

This application was heard by videoconference on October 11, 2022. Both the Landlord and the Tenant attended the hearing. The Tenant spoke with Tenant Duty Counsel on the hearing date.

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 \$930.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$30.58. This amount is calculated as follows: \$930.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The parties agree that the rent arrears owing to October 31, 2022 are \$8,370.00.
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 \$900.00 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.
9. 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.

10. The Tenant had indicated that they had deliberately withheld rent payments because they were told that they could since they had issues with the tenancy and troubles making payments. The Tenant also testified that they have gotten back to work and that they have a substantial increase in their monthly income as a result. The Tenant indicated that they could afford the rent going forward plus an additional \$2,000.00 per month. The Tenant further indicated that they could pay the Landlord \$930 by October 14th and then \$2,000.00 by November 18th.
11. The Landlord was opposed to the Tenants payment proposal on the basis that they have been substantially prejudiced with their own financial obligations as a result of the Tenant not paying. Based on the history of payments, the Landlord does not believe that the Tenant will make the payments as promised.
12. On the basis that the Tenant testified that they have increased income and can pay the Landlord back by the middle of February, I find it reasonable to consider the Tenant's payment plan request. The payments would balance the prejudice to the Landlord. Therefore, based on the Tenant testifying that they would pay \$2,930.00 by November 18th, I find it appropriate to order this amount for the first payment.

It is ordered that:

1. The Tenant shall pay to the Landlord \$8,556.00 for arrears of rent up to October 31, 2022 and costs.
2. The Landlord's application for termination of the tenancy is denied on the conditions that the Tenant shall pay to the Landlord the amount set out in paragraph 1 in accordance with the following schedule:
 - a) \$2,930.00 on or before November 18, 2022;
 - b) November 2022 rent on or before November 18, 2022;
 - c) \$2,000.00 on or before December 23, 2022;
 - d) December 2022 rent on or before December 23, 2022;
 - e) \$2,000.00 on or before January 20, 2023;
 - f) January 2023 rent on or before January 20, 2023;
 - g) \$1,626.00 on or before February 17, 2022;
 - h) February 2023 rent on or before February 17, 2022.

3. If the Tenant fails to make any one of the payments in accordance with this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenant to the Landlord pursuant to paragraph 1 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenant, apply to the LTB within 30 days of the Tenant's breach pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenant and requiring that the Tenant pay any new arrears, NSF fees and related charges that became owing after October 31, 2022.

November 15, 2022

Date Issued

Terri van Huisstede
Member, Landlord and Tenant Board

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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.