



**Order under Section 69 and 89  
Residential Tenancies Act, 2006**

**Citation:** Escoffery v Martin, 2022 ONLTB 11183  
**Date:** 2022-11-09

**File Number:** LTB-L-017735-22  
LTB-L-053261-22

2022 ONLTB 11183 (CanLII)

**In the matter of:** 12 MOSELLE DR  
ETOBICOKE ON M9V5A7

**Between:** Norman Chambers, Sarah Escoffery Landlords

**And**

Antonio Teano Martin, Queenie Ann man Martin Tenants

Norman Chambers, Sarah Escoffery (the 'Landlords') applied for an order to terminate the tenancy and evict Antonio Teano Martin, Queenie Ann man Martin (the 'Tenants') because:

- the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year (L2 Application),

AND,

Norman Chambers, Sarah Escoffery (the 'Landlord') applied for an order to terminate the tenancy and evict Antonio Teano Martin, Queenie Ann man Martin (the 'Tenant') because:

- the Tenants did not pay the rent that the Tenant owes (L1 Application).

The Landlords also claimed compensation for each day the Tenants remained in the unit after the termination date.

This application was heard by videoconference on November 2, 2022, at 11:00 A.M.

The Landlords and the Tenants attended the hearing.

**Determinations:**

**L2 Application**

Landlord's Own Use

1. As explained below, the Landlords have proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. Therefore, the tenancy shall be terminated on December 31, 2022.
2. The Tenants were in possession of the rental unit on the date the application was filed.
3. The Landlords gave the Tenants an N12 notice of termination deemed served on March 28, 2022, with the termination date of May 31, 2022. The Landlord claims that they require vacant possession of the rental unit for the purpose of residential occupation by the Landlords.
4. The Landlord in good faith requires possession of the rental unit for the purpose of their own residential occupation for a period of at least one year.
5. The Landlord has compensated the Tenant an amount equal to one month's rent by May 31, 2022. Evidence was submitted to the Board credit for one months rent on May 27, 2022, applied to the month of March 2022.
6. A declaration from the Landlords was also submitted confirming the Landlords' genuine intent to move into the rental unit, for a minimum period of one-year.

**L1 Application**

Non-Payment of Rent

7. 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.
8. As of the hearing date, the Tenant was still in possession of the rental unit.
9. The lawful rent is \$2,300.00. It is due on the 1 day of each Month.
10. Based on the Monthly rent, the daily rent/compensation is \$75.62. This amount is calculated as follows: \$2,300.00 x 12, divided by 365 days.
11. The Tenant has not made any payments since the application was filed.
12. The rent arrears owing to December 31, 2022 are \$22,269.35.

13. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

Deposit, Interest and Section 82 of the Act

14. The Tenant is entitled to a total abatement of rent of \$1255.00. This amount will be deducted from the amount owing to the Landlord. This sum is in relation to costs incurred by the Tenants for plumbing services of \$450.00, and an abatement of rent of \$805.00 (5% abatement for 7-months of rent) regarding a non-functioning vanity sink in the rental unit from June 2022 to December 2022.
15. The Landlord collected a rent deposit of \$2,300.00 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.
16. Interest on the rent deposit, in the amount of \$38.87 is owing to the Tenant for the period from April 29, 2020 to December 31, 2022.

Relief from Eviction

17. 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 postpone the eviction until December 31, 2022 pursuant to subsection 83(1)(b) of the Act. The Tenants have 3 children (aged 3, 7 and 12) and this postponement takes into consideration the timing of the academic schedule for the children.
18. This is a non-remedial termination date of December 31, 2022.

**It is ordered that:**

1. Pursuant to the L2 Application, the tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before December 31, 2022.
2. Pursuant to the L1 Application, the Tenant shall pay the Landlord \$18,861.48 in rent arrears owing up to the date of December 31, 2022. The rent deposit, interest the Landlord owes on the rent deposit, and the abatement of rent \$1,255.00, are all 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 31, 2022, the Tenant will start to owe interest. This will be simple interest calculated from January 1, 2023 at 4.00% annually on the balance outstanding.
4. If the unit is not vacated on or before December 31, 2022, then starting January 1, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.

5. 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 January 1, 2023.
6. The Tenant shall also pay the Landlord daily rent/compensation of \$75.62 per day for the use of the unit starting January 1, 2023 to the date the Tenant moves out of the unit.

**November 9, 2022**  
**Date Issued**

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Steven Mastoras  
Member, Landlord and Tenant Board

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 of the Tenant expires on July 1, 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 up to December 31, 2022, as the tenancy is terminated**

Rent Owing To December 31, 2022	\$22,269.35
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	- \$ 0.00
<b>Less</b> the amount the Tenant paid into the Board since the application was filed	- \$ 0.00
<b>Less</b> the amount of the last month's rent deposit	- \$ 2,300.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$38.87
<b>Less</b> the amount the Landlord owes the Tenant for an abatement	- \$ 1,255.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total amount owing to the Landlord</b>	<b>\$18,861.48</b>
Plus daily compensation owing for each day of occupation starting January 1, 2023:	\$ 75.62 (per day)

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