



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

Citation: Foubert v Clark, 2022 ONLTB 11273

Date: 2022-11-04

File Number: LTB-L-007980-22

In the matter of: Unit B, 639 OAK ST
COLLINGWOOD ON L9Y2Z7

Between: Kari Foubert, Tom Foubert Landlord

And

Luke Clark, Sierra Badgley Tenants

Kari Foubert, Tom Foubert (the 'Landlord') applied for an order to terminate the tenancy and evict Luke Clark, Sierra Badgley (the 'Tenant') because:

- the Tenant did not pay the rent that the Tenant owes (L1 Application); and
- the Tenant has been persistently late in paying the Tenant's rent; (L2 Application).

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on November 2, 2022 at 9:00 a.m.

Only the Landlord's Legal Representative, Ms. Christina De Palma attended the hearing.

As of 9:30 A.M., the Tenants were not present or represented at the hearing although properly served with notice of this hearing by the Board. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

L1 Application – Non-Payment of Rent

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 \$1,292.75. It is due on the 1 day of each Monthly.

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4. Based on the Monthly rent, the daily rent/compensation is \$42.50. This amount is calculated as follows: \$1,292.75 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
7. There is no last month's rent deposit.

L2 Application – Persistent Late Payment of Rent

8. The Tenant has persistently failed to pay the rent on the date it was due. The rent is due on the 1ST day of each month. The rent has been paid late 10 out of 12 months in the previous year from March 2021 to February 2022.

Relief from Eviction

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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The Tenant did not attend the hearing to present evidence or submissions in support of granting relief from eviction and no circumstances were disclosed at the hearing or appeared in the Board file.

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 November 15, 2022.
2. The Tenant shall pay the Landlord any rent arrears owing up to the date of the hearing.
3. As of the date of the hearing, the Tenant owes the Landlord \$13,198.50. See Schedule 1 for the calculation of the amount owing.
4. The Tenant shall also pay the Landlord daily rent/compensation of \$42.50 per day for the use of the unit starting November 3, 2022 to the date the Tenant moves out of the unit.
5. If the Tenant does not pay the Landlord the full amount owing on or before November 15, 2022, the Tenant will start to owe interest. This will be simple interest calculated from November 16, 2022 at 4.00% annually on the balance outstanding.
6. If the unit is not vacated on or before November 15, 2022, then starting November 16, 2022, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
7. 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 16, 2022.

November 4, 2022**Date Issued**_____
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 May 16, 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 as of November 2, 2022, as the tenancy is terminated

Rent Owing To November 2, 2022	\$13,012.50
Application Filing Fee	\$ 186.00
NSF Charges	\$ 0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$ 0.00
Less the amount the Tenant paid into the Board since the application was filed	- \$ 0.00
Less the amount of the last month's rent deposit	- \$0.00
Less the amount of the interest on the last month's rent deposit	- \$ 0.00
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	\$13,198.50
Plus daily compensation owing for each day of occupation starting November 3, 2022:	\$ 42.50 (per day)