



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** ashfa v Butt, 2024 ONLTB 29771

**Date:** 2024-05-08

**File Number:** LTB-L-094195-23

**In the matter of:** B, 7289 Terragar Blvd  
Mississauga ON L5N7L8

**Between:** Ashfaq Hossain

**And**

Shoaib Anwar Butt  
Sarwat Shoaib



Landlord

Tenant

Ashfaq Hossain (the 'Landlord') applied for an order to terminate the tenancy and evict Shoaib Anwar Butt and Sarwat Shoaib (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on April 16, 2024.

The Landlord's Representative Yasmin van Mauril, the Landlord, the Tenant's Representative Idrees Khan and the Tenants attended the hearing. Shoaib Anwar Butt attended the videoconference for approximately 1 hour and left prior to the hearing starting.

When the capitalized word "Landlord" is used in this order, it refers to all persons or companies identified as a Landlord at the top of the order. When the capitalized word "Tenant" is used in this order, it refers to all persons identified as a Tenant at the top of the order.

### Preliminary Issue:

1. The Tenant's Representative raised the issue of the validity of the N4 Notice to End the Tenancy, stating that the Tenant's unit was one of three units in the basement of the residential complex and therefore not properly identified on the N4 Notice.
2. I have noted that the N4 Notice, the Certificate of Service and the Application all note the Tenant's rental unit as Unit B. The Tenant's Representative provided no documentation or other evidence to support that the Tenant's unit should be identified in any other manner.
3. I am satisfied that the N12 Notice correctly identifies the rental unit, unit B, and that the Tenant received the notice and understood that it was for the rental unit. Therefore, this is not an issue that affects the validity of the notice.

**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 \$1,400.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$46.03. This amount is calculated as follows: \$1,400.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to April 30, 2024, are \$10,600.00.
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 \$1,400.00 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. Interest on the rent deposit, in the amount of \$27.81 is owing to the Tenant for the period from July 2, 2023, to April 16, 2024.

**Relief from Eviction**

10. The Landlord is seeking a standard order terminating the tenancy, with an eviction date 11 days from the date of this order.
11. The Landlord's Representative testified that the Landlord is suffering from health issues and unable to work and relies on the income from the rental unit to cover the mortgage and other expenses. She further testified that due to the Tenant not paying rent, it has caused a financial hardship on the Landlord to the extent that his wife, who is 6 years old and also suffering from health issues, is unable to retire due to the financial strain.
12. The Tenant's Representative testified that Sarwat Shoaib was the only Tenant residing in the rental unit, as her husband had left and was out of the country, and his attendance at the hearing was unexpected.
13. The Tenant, Sarwat Shoaib, is seeking a payment plan and testified through her Representative that she is only working part time, earning approximately \$600.00 to \$700.00 per month, just enough to provide the basics such as food. She further testified that she is hoping in the next two months to be able to gain full time employment .

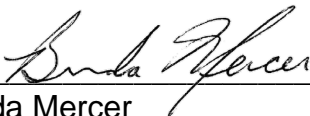
14. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenant and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
15. The reason I have not ordered a conditional payment plan as the Tenant requested, is because a payment plan would be unrealistic according to the Tenant's budget. Her income is not adequate to cover the monthly rent and therefore she would be unable to make reasonable payments above the rent towards the arrears. A payment plan would be unreasonable based on the Tenant's income and cause continued financial hardship to the Landlord.

**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:**
  - \$12,186.00 if the payment is made on or before May 19, 2024. 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 May 19, 2024 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 May 19, 2024.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$8,694.67. 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 \$46.03 per day for the use of the unit starting April 17, 2024, 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 May 19, 2024, the Tenant will start to owe interest. This will be simple interest calculated from May 20, 2024 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before May 19, 2024, then starting May 20, 2024, 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 May 20, 2024.

**May 8, 2024**  
**Date Issued**

  
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Brenda Mercer  
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 November 20, 2024 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 May 19, 2024**

Rent Owing To May 31, 2024	\$12,000.00
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 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	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$12,186.00</b>

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

Rent Owing To Hearing Date	\$9,936.48
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 LTB since the application was filed	- \$0.00
<b>Less</b> the amount of the last month's rent deposit	- \$1,400.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$27.81
<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	- \$0.00
<b>Total amount owing to the Landlord</b>	<b>\$8,694.67</b>
Plus daily compensation owing for each day of occupation starting April 17, 2024	\$46.03 (per day)