



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

**Citation:** Macpherson v Spoar, 2024 ONLTB 50828

**Date:** 2024-07-08

**File Number:** LTB-L-058662-23

**In the matter of:** 6471 ASH ST  
NIAGARA FALLS ON L2G2H4

**Between:** John Macpherson

**And**

Tracy Spoar

I hereby certify this is a  
true copy of an Order dated  
**JUL 08, 2024**  
Landlord and Tenant Board

Landlord

Tenant

John Macpherson (the 'Landlord') applied for an order to terminate the tenancy and evict Tracy Spoar (the 'Tenant') because:

- the Tenant has been persistently late in paying the Tenant's rent.

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 April 2, 2024.

Only the Landlord and their legal representative, Kelly Hawkes, attended the hearing.

As of 10:34 a.m. the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

**It is determined that:**

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. Therefore, the tenancy is terminated as of July 19, 2024.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On June 28, 2023, the Landlord gave the Tenant an N8 notice of termination. The notice of termination contains the following allegations: the Tenant has paid their rent late in each of the 12 previous months.

4. The Tenant has persistently failed to pay the rent on the date it was due. The rent is due on the first day of each month. The rent has been paid late 12 times in the past 12 months.
5. Since the application was filed in June 2023, the Tenant has not paid rent.
6. Based on the Monthly rent, the daily compensation is \$84.25. This amount is calculated as follows: \$2,562.50 x 12, divided by 365 days.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord has a separate L1 application for arrears which was heard in January and which they believed would result in a termination order. This order will not address daily compensation to the date of the hearing, as this is addressed in the separate L1 order (file number LTB-L-064788-23)
9. The Landlord collected a rent deposit of \$1,600.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$199.56 is owing to the Tenant for the period from September 1, 2016 to April 2, 2024.
10. 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.
11. The Tenant has not improved their on-time payment since the N8 notice was served, and has instead stopped paying rent entirely.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before July 19, 2024.
2. If the unit is not vacated on or before July 19, 2024, then starting July 20, 2024, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. 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 July 20, 2024.
4. The Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.
5. The Landlord owes \$1,799.56 which is the amount of the rent deposit and interest on the rent deposit, unless this has already been applied pursuant to the L1 order.
6. The Tenant shall pay \$84.25 per day for compensation for the use of the unit starting July 20, 2024 to the date the Tenant moves out of the unit.

7. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.

**July 8, 2024**  
**Date Issued**

  
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Dawn Carr  
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 of the Tenant expires on January 20, 2025 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.