



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** Dhaliwal v Foster, 2024 ONLTB 56610

**Date:** 2024-07-30

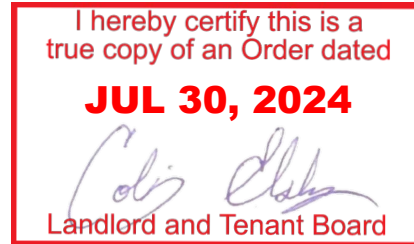
**File Number:** LTB-L-084434-23

**In the matter of:** 16 MILKWEED CRESCENT  
BRAMPTON ON L7A1T8

**Between:** Narinder Dhaliwal  
Jaspreet Mangat

**And**

Terroni Foster



Landlord

Tenant

Narinder Dhaliwal and Jaspreet Mangat (the 'Landlord') applied for an order to terminate the tenancy and evict Terroni Foster (the 'Tenant') because:

- the Tenant did not pay the rent that the Tenant owes; (L1 application) and,
- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant. (L2 application).

Narinder Dhaliwal and Jaspreet Mangat (the 'Landlord') {also} applied for an order requiring Terroni Foster (the 'Tenant') to pay the Landlord's reasonable out-of-pocket expenses that are the result of the Tenant's failure to pay utility costs they were required to pay under the terms of the tenancy agreement.

This application was heard by videoconference on July 3, 2024.

Only the Landlord and the Landlord's legal representative, Kristopher Flores, attended the hearing.

As of 9:38am, 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.

### Determinations:

#### L1 Application

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 \$2,400.00. It is due on the 15th day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$78.90. This amount is calculated as follows: \$2,400.00 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 July 14, 2024 are \$26,400.00.
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 \$2,400.00 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 \$126.94 is owing to the Tenant for the period from November 15, 2021 to July 3, 2024.

#### L2 Application

10. 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.
11. On September 29, 2023, the Landlord gave the Tenant an N5 notice of termination with a termination date of October 24, 2023. The notice of termination contains the allegation that the Tenant has failed to pay the utilities he is responsible for in the lease agreement.
12. The Tenant did not stop correct the omission within seven days after receiving the N5 notice of termination by paying the amount owing for the utilities. Therefore, the Tenant did not void the N5 notice of termination in accordance with s.64(3) of the Residential Tenancies Act, 2006 (Act).
13. The Landlord submitted a copy of the lease that indicates that the Tenant is responsible for the payment of the utility bills.
14. Based on the uncontested evidence before me, I find that the Tenant has not paid for utility costs they are responsible for. I therefore find that the Tenant has substantially interfered with a lawful right, interest or privilege of the Landlord by failing to pay the utility bills on an ongoing basis.

#### Compensation for unpaid utilities

15. The Tenant failed to pay the utility costs that they were required to pay under the terms of the tenancy agreement.
16. The Landlord has incurred reasonable out-of-pocket expenses of \$1,473.01 as a result of the Tenant's failure to the utilities.

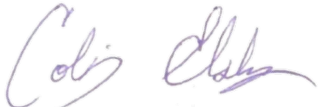
Relief from Eviction

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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
18. As noted, the Tenant did not attend the hearing of this matter and thus I did not have the opportunity to hear their evidence regarding their circumstances or to dispute the Landlord's application for an eviction order.
19. Because the tenancy is being terminated for both a claim for substantial interference and non-payment of rent, the eviction is not voidable under section 74 of the Act.

**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 August 10, 2024.
2. If the unit is not vacated on or before August 10, 2024, then starting August 11, 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 August 11, 2024.
4. The Tenant shall also pay the Landlord compensation of \$78.90 per day for the use of the unit starting July 15, 2024 until the date the Tenant moves out of the unit.
5. The Tenant shall pay to the Landlord \$1,473.01, which represents the reasonable out-of-pocket expenses the Landlord has incurred or will incur as a result of the unpaid utility costs.
6. The Tenant shall also pay the Landlord \$26,400.00 for the amount owing up to the hearing date.
7. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
8. The Landlord owes \$2,526.94 which is the amount of the rent deposit and interest on the rent deposit, and this is deducted from the amount owing by the Tenant.
9. The total amount the Tenant owes the Landlord is \$25,532.07.
10. If the Tenant does not pay the Landlord the full amount owing on or before August 10, 2024, the Tenant will start to owe interest. This will be simple interest calculated from August 11, 2024 at 7.00% annually on the balance outstanding.

**July 30, 2024**  
**Date Issued**

  
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Colin Elsby  
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 February 11, 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.