



Oct 1, 2024

Landlord and Tenant Board

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

File Number: LTB-L-054083-24

In the matter of: Upper Portion, 75 Longueuil Pl.
Whitby, ON L1R3H1

Between: Shahid Chishty Landlord

And

David Spencer Tenant
Denyse Dawes

Shahid Chishty (the 'Landlord') applied for an order to terminate the tenancy and evict David Spencer and Denyse Dawes (collectively the 'Tenant') because the Tenant did not pay the rent owed.

This application was heard by videoconference on September 25, 2024.

Only the Landlord attended the hearing.

As of 10:01 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.

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 \$2,784.15. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$91.53. This amount is calculated as follows: \$2,784.15 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 September 30, 2024, are \$12,920.75.
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 \$2,650.00 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 \$162.12 is owing to the Tenant for the period from October 9, 2021, to September 25, 2024.
10. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the numerous efforts made by the Landlord through phone, text, email, and in-person to arrange payments with the Tenant, and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
11. This tenancy was already terminated effective August 31, 2024, by order LTB-L-059510-24, issued on August 15, 2024. If the Tenant voids this L1 order by making the payment required in paragraph 2 below, the tenancy is still terminated pursuant to order LTB-L-059510-24 and the Landlord may continue to seek enforcement of that order with the Sheriff.

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:**
 - \$15,890.90 if the payment is made on or before October 12, 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 October 12, 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 October 12, 2024.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$9,798.73. 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 \$91.53 per day for the use of the unit starting September 26, 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 October 12, 2024, the Tenant will start to owe interest. This will be simple interest calculated from October 13, 2024, at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before October 12, 2024, then starting October 13, 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 October 13, 2024.

October 1, 2024
Date Issued



Ken Audziss
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 April 13, 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.

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.

**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 October 12, 2024

| | |
|----------------------------------------------------------------------------------------|--------------------|
| Rent Owing to October 31, 2024 | \$15,704.90 |
| 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 LTB since the application was filed | - \$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 the Tenant must pay to continue the tenancy | \$15,890.90 |

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

| | |
|----------------------------------------------------------------------------------------|----------------------|
| Rent Owing to Hearing Date, September 25, 2024 | \$12,424.85 |
| 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 LTB since the application was filed | - \$0.00 |
| Less the amount of the last month's rent deposit | - \$2,650.00 |
| Less the amount of the interest on the last month's rent deposit | - \$162.12 |
| 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 | \$9,798.73 |
| Plus, daily compensation owing for each day of occupation starting September 26, 2024 | \$91.53 (per day) |