



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

Citation: Langford v Button, 2024 ONLTB 87196

Date: 2024-11-26

File Number: LTB-L-022354-24

In the matter of: BASEMENT, 413 MAPLEWOOD DR
OSHAWA ON L1G5R7

Between: Rebecca Langford

And

Sean Button

I hereby certify this is a
true copy of an Order dated
NOV 26, 2024
Landlord and Tenant Board

Landlord

Tenant

Rebecca Langford (the 'Landlord') applied for an order to terminate the tenancy and evict Sean Button (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

The Landlord also applied for an order to terminate the tenancy and evict the Tenant because 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

The Landlord also applied for an order requiring 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 September 24, 2024.

Only the Landlord and the Landlord's Legal Representative, Amala Dripal, attended the hearing.

As of 10:30 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:

Application for 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. The Tenant was in possession of the rental unit on the date the application was filed.

3. The Tenant vacated the rental unit on March 30, 2024. Rent arrears are calculated up to the date the Tenant vacated the unit.
4. The lawful rent is \$1,800.00. It was due on the 1st day of each month.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to March 30, 2024 are \$7,675.40.
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 \$1,800.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit is applied to the arrears of rent because the tenancy terminated.
9. Interest on the rent deposit, in the amount of \$26.38 is owing to the Tenant for the period from August 30, 2023 to March 30, 2024.

Application for the Failure of the Tenant to Pay Utilities

10. As the Tenant vacated the rental unit on March 30, 2024, the Landlord's application for termination of the tenancy related to the Tenant failing to pay utilities they were required to pay is moot.
11. The Landlord's application sought \$462.40 for out-of-pocket expenses related to the Tenant's failure to pay utilities they were required to pay. At the hearing the Landlord requested that this amount be amended to \$710.05, but the Landlord had not made a written request to amend the application prior to the hearing and the Tenant was not in attendance at the hearing. Given my findings below, it is not necessary for me to make a determination on whether to allow the amendment seeking a higher amount of utility costs, and I decline to make such determination.
12. The Landlord did send the Tenant an e-mail on May 3, 2024 which included all of the utility bills the Landlord intended to rely on as evidence at the hearing and made clear to the Tenant that their calculation of the amount owing was \$710.05. As such, the Landlord is entitled to establish the amount owing for utilities with reference to all outstanding utility amounts.
13. The Landlord confirmed that the Tenant paid a deposit for utilities in the amount of \$300.00, collected by the previous landlord the Landlord took over this tenancy agreement from. While utility deposits are not permitted by the *Residential Tenancies Act*, 2006 (the "Act"), as this deposit was acknowledged as having been paid by the Tenant to be applied to their final utility bills, I find it would be unfair to make an award for amounts owing in relation to utilities without applying this deposit amount.
14. The Tenant failed to pay heat, electricity and water costs that they were required to pay under the terms of the tenancy agreement. The Tenant was obligated to pay 40% of all utility costs for the residential complex, but failed to do so beginning in November, 2023.
15. The Landlord submitted utility bills from the Regional Municipality of Durham, Oshawa Power and Enbridge Gas that established the total amount the Tenant failed to pay pursuant to the Tenant's obligations under the tenancy agreement was \$710.05. For any

utility bill in which the tenant was in possession of the rental unit for only part of the period covered, the amount included in the Landlord's calculations was the proportionate number of days the Tenant was in possession of the rental unit for the period covered by the bill. I find this is a reasonable approach and accept the Landlord's calculations.

16. After deducting the \$300.00 utility deposit paid by the Tenant from the amount above, I find that the Landlord has incurred reasonable out-of-pocket expenses of \$410.50 as a result of the Tenant's failure to pay heat, electricity and water costs.
17. The Landlord also asked for costs related to junk removal resulting from the state the Tenant left the residential complex in when they vacated the rental unit. As this amount was not claimed in the application, and no written request to amend the application was made prior to the hearing, I find it would be procedurally unfair to amend the application to allow the Landlord to pursue this cost given the Tenant was not present.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of March 30, 2024, the date the Tenant moved out of the rental unit.
2. The Tenant shall pay to the Landlord \$6,035.02 related to the Landlord's application for non-payment of rent. This amount includes rent arrears owing up to the date the Tenant moved out of the rental unit and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit is deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.
3. The Tenant shall also pay to the Landlord \$410.05, which represents the reasonable out-of-pocket expenses the Landlord has incurred as a result of the unpaid utility costs.
4. The total amount the Tenant owes the Landlord is \$6,445.07.
5. If the Tenant does not pay the Landlord the full amount owing on or before December 7, 2024, the Tenant will start to owe interest. This will be simple interest calculated from December 8, 2024 at 6.00% annually on the balance outstanding.

November 26, 2024

Date Issued

Benjamin Seigel

Member, Landlord and Tenant Board

15 Grosvenor St, 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.

**Schedule 1
SUMMARY OF CALCULATIONS**

A. Amount the Tenant must pay as the tenancy is terminated

Rent Owing To Move Out Date	\$7,675.40
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	- \$1,800.00
Less the amount of the interest on the last month's rent deposit	- \$26.38
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	\$6,035.02