



**Order under Section 69 / 88.2
Residential Tenancies Act, 2006**

File Number: LTB-L-098838-23

In the matter of: BASEMENT, 26 SYLVIA ST
BARRIE ON L4M5J4

Between: Sudhakara Sahoo

And

Kenneth Colwill

I hereby certify this is a
true copy of an Order dated
Nov 07, 2024
Landlord and Tenant Board

Landlord

Tenant

Sudhakara Sahoo (the 'Landlord') applied for an order to terminate the tenancy and evict Kenneth Colwill (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes. (L1 application)

The Landlord also applied for an order to terminate the tenancy and evict the Tenant because (L2 application):

- 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 August 8, 2024.

Only the Landlord attended the hearing.

As of 10:48 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:

L1 application – 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 July 5, 2024. Rent arrears are calculated up to the date the Tenant vacated the unit.
4. The lawful rent is \$1,281.00. It was due on the 1st day of each month.
5. The Tenant has paid \$400.00 to the Landlord since the application was filed.
6. The rent arrears owing to July 5, 2024 are \$12,618.60.
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 \$1,250.00 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 \$72.43 is owing to the Tenant for the period from March 12, 2022 to July 5, 2024.

L2 application

Preliminary issue:

10. At the hearing, the Landlord requested to amend the L2 application from \$926.77 to \$1,488.81 for the additional out-of-pocket utility expenses that were not included in the original application filed on December 28, 2023. They requested that the Board allow the amendment to the application to increase the claim as the Tenant was not prejudiced because each month they emailed the Tenant with the total amount owing for utilities. Therefore, the Tenant had notice of the increased claim.
11. Based on the evidence of the Landlord of regarding service of the monthly utilities owing by the Tenant, I was satisfied the Tenant received adequate notice of the Landlord's allegations and would suffer no prejudice if this matter was permitted to proceed. The Tenant did not attend the hearing to contest the amendment.
12. I consented to the request to amend the application, pursuant to section 200(1) of the Act and Rule 15.4 of the Board's Rules of Procedure.
13. As explained below, the Landlord has proven on a balance of probabilities the grounds for the claim for compensation in the application. Therefore, the Tenant shall pay to the Landlord the amount of \$1,488.81.
14. The Tenant was in possession of the rental unit on the date the L2 application was filed.
15. The Tenant vacated the rental unit on July 5, 2024.

N5 notice of termination – substantial inference

16. On November 18, 2023, the Landlord gave the Tenant an N5 notice of termination deemed served on the same day. The notice of termination contains the following allegations:

- the Tenants failed to compensate the Landlord for hydro, gas, and water as required by the rental agreement.

17. The Tenant did not correct the omission within seven days after receiving the N5 notice of termination.

18. The Landlord submitted the rental agreement which indicates that the Tenant is responsible for the payment of 1/3 of the hydro, gas, and water monthly charges. The Landlord also submitted a spreadsheet with the breakdown the Tenant's portion to paid.

Hydro

19. In support of her claim, the Landlord provided a spreadsheet reflecting the invoices from Alactra Utilities and the Tenant's portion, totalling **\$448.47**:

- March 24, 2023: \$84.62 – **\$28.20**
- April 28, 2023: \$192.98 - **\$31.00**
- May 25, 2023: \$62.88 - **\$20.96**
- June 26, 2023: \$107.95 - **\$35.52**
- July 27, 2023: \$109.71 - **\$36.57**
- August 25, 2023: \$99.64 - **\$33.21**
- September 27, 2023: \$92.71 - **\$30.97**
- October 26, 2023: \$76.37 - **\$25.46**
- November 24, 2023: \$75.28 - **\$25.09**
- December 28, 2023: \$70.57 – **23.56**
- January 25, 2024: \$81.93 - **\$27.31**
- February 27, 2024: \$81.53 - **\$27.17**
- March 26, 2024: \$75.05 - **\$25.01**
- April 25, 2024: \$69.99 - **\$23.33**
- May 27, 2024: \$74.78 - **\$24.92**
- June 26, 2024: \$90.57 - **\$30.19**

Gas

20. The Landlord provided a spreadsheet reflecting the invoices from Enbridge Gas and the Tenant's portion, totalling **\$665.79**:

- March 28, 2023: \$142.65 – **\$47.22**
- April 27, 2023: \$143.53 - **\$47.84**
- May 29, 2023: \$142.65 - **\$47.55**
- June 26, 2023: \$142.65 - **\$47.55**

- July 26, 2023: \$142.65 - **\$47.55**
- August 28, 2023: \$142.65 - **\$47.55**
- September 14, 2023: \$142.65- **\$47.55**
- October 30, 2023: \$142.65 - **\$47.55**
- November 27, 2023: \$142.65- **\$47.55**
- January 24, 2024: \$57.66 - **\$15.88**
- February 26, 2024: \$132.09 - **\$44.08**
- March 26, 2024: \$132.09 - **\$44.63**
- April 25, 2024: \$135.70 - **\$45.23**
- May 28, 2024: \$132.09 - **\$44.03**
- June 26, 2024: \$132.09 - **\$44.03**

Water

21. The Landlord provided a spreadsheet reflecting the invoices from Barrie Water Wastewater and the Tenant's portion, totalling **\$374.55**:

- March 9, 2023: \$124.41 – **\$41.47**
- May 11, 2023: \$139.08 - **\$46.36**
- July 7, 2023: \$146.14 - **\$48.71**
- September 14, 2023: \$149.09- **\$49.70**
- November 9, 2023: \$134.82 - **\$44.94**
- January 11, 2024: \$149.09 - **\$49.69**
- March 14, 2024: \$154.98 - **\$51.66**
- May 9, 2024: \$126.08 - **\$42.02**

22. It was the Landlord's uncontested testimony that they paid the utility bills in question and either emailed or physically delivered the bills to the Tenant with notation of the portion due from the Tenant, and that the Tenant did not make the payments to the Landlord as required under the lease.

23. Based on the uncontested evidence of the Landlord, I am satisfied that the Tenants did not make these payments and therefore, the Tenants did not void the N5 notice of termination in accordance with s.64(3) of the *Residential Tenancies Act, 2006* (Act).

24. I find that the Tenant's failure to pay the utility bills as required under the rental agreement substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord.

Compensation for unpaid utilities

25. The Tenants failed to hydro, gas and water that they were required to pay under the terms of the tenancy agreement.

26. The Landlord has incurred reasonable out-pocket expenses of \$1,488.21 as a result of the Tenants' failure to pay hydro, gas, and water as discussed above.

It is ordered that:

L1 application – rent arrears

1. The tenancy between the Landlord and the Tenant is terminated as of July 5, 2024, the date the Tenant moved out of the rental unit.
2. The Tenant shall pay to the Landlord \$11,482.17. 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.

L2 application – utility costs

3. The Tenant shall also pay to the Landlord \$1,488.81, which represents the reasonable out-of-pocket expenses the Landlord has incurred or will incur as a result of the unpaid utility costs.
4. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
5. The total amount the Tenant owes the Landlord is \$13,156.98.
6. If the Tenant does not pay the Landlord the full amount owing on or before November 18, 2024, the Tenant will start to owe interest. This will be simple interest calculated from November 19, 2024 at 6.00% annually on the balance outstanding.

November 7, 2024
Date Issued



Colette Myers
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	\$13,018.60
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$400.00
Less the amount of the last month's rent deposit	- \$1,250.00
Less the amount of the interest on the last month's rent deposit	- \$72.43
Total amount owing to the Landlord	\$11,482.17