



Order under Section 69 Residential Tenancies Act, 2006

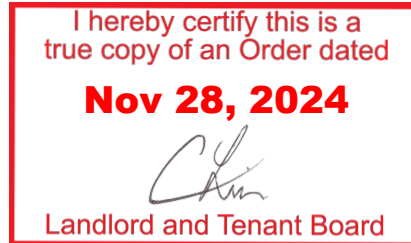
File Number: LTB-L-039715-24

In the matter of: B, 37 LAURELEAF RD
Richmond Hill ON L3T2X6

Between: Dignity Genesis Inc.

And

Maliheh Aghasi



Landlord

Tenant

Dignity Genesis Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Maliheh Aghasi (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on August 29, 2024.

The Landlord, the Landlord's Legal Representative, Ali Golabgir and the Tenant attended the hearing.

Determinations:

Preliminary Issue – Request to Adjourn

1. At the hearing, the Tenant sought an adjournment as the Tenant sought to bring section 82 issues and had not provided the Landlord or the Board with a written description of the issues she intended to raise at the hearing.
2. The Tenant stated that she had not had adequate time to prepare her section 82 issues prior to the hearing as she was not aware of the hearing. The Tenant submitted a request to reschedule on August 2, 2024 and was aware of the hearing for almost a month prior to the hearing but had not uploaded any written description of the issues.
3. The Tenant has not paid any rent since April 2024.
4. The arrears are high and there was significant prejudice to the Landlord in granting a request to adjourn.
5. As a result, I denied the request to adjourn the hearing on this basis.

Section 82 Issues

5. As stated above, the Landlord was at least aware of the hearing by August 2, 2024.
6. The Tenant uploaded the evidence they intended to rely upon to Board on August 22, 2024. However, the Tenant did not provide the Landlord with a written description of the issues she intends to raise.

7. Section 82 of the *Residential Tenancies Act, 2006* (the 'Act') states that:

(1) At a hearing of an application by a landlord under section 69 for an order terminating a tenancy and evicting a tenant based on a notice of termination under section 59, the Board shall permit the tenant to raise any issue that could be the subject of an application made by the tenant under this Act if the tenant,

(a) Complies with the requirements set out in subsection (2); or

(b) Provides an explanation satisfactory to the Board explaining why the tenant could not comply with the requirements set out in subsection (2).

(2) The requirements referred to in subsection (1) are the following:

1. The tenant shall give advance notice to the landlord of the tenants' intent to raise the issue at the hearing.
2. The notice shall be given within the time set out in the Rules.
3. The notice shall be given in writing and shall comply with the Rules.

8. Rule 19.1 of the Landlord and Tenant Board's Rules of Procedure states further that:

Unless the LTB has directed or ordered otherwise, all parties to a matter that has been scheduled for a CMH or a hearing must provide the other parties and the LTB with a copy of all documents, pictures and other evidence that the party intends to rely upon at least 7 days before the CMH or hearing . The evidence must be provided to the other parties using one of the methods of service identified in the RTA or Rule 3.

9. Rule 19.7 states that a party who fails to comply with Rule 19 or an order or direction for disclosure may not rely on the evidence that was not disclosed as directed or ordered, unless otherwise ordered.

10. The Tenant did not provide a satisfactory reason for not providing a written description of the issues she intended to raise.

11. As the Landlord was not served with any written description of the issues the Tenant intends to raise at least seven days prior to the hearing, I found that it was unfairly prejudicial to the Landlord to hear the section 82 issues at the hearing.

L1 Application – Non-Payment of Rent

6. 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.

7. As of the hearing date, the Tenant was still in possession of the rental unit.

8. The lawful rent is \$2,650.00. It is due on the 1st day of each month.
9. Based on the Monthly rent, the daily rent/compensation is \$87.12. This amount is calculated as follows: \$2,650.00 x 12, divided by 365 days.
10. The Tenant has not made any payments since the application was filed.
11. The rent arrears owing to August 31, 2024 are \$23,850.00.
12. The Tenant did not dispute the amount of arrears owing.
13. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
14. 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.
15. Interest on the rent deposit, in the amount of \$110.17 is owing to the Tenant for the period from January 1, 2023 to August 29, 2024.
16. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including whether the Landlord attempted to negotiate a repayment agreement with the Tenant and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
17. The Tenant testified that she has withheld the rent but that she could have the full amount paid off by November 30, 2024. The Tenant testified that she has set aside the money to pay the rent but has withheld rent due to her maintenance issues.
18. As of the date of the order, the Tenant will have had the time she has requested to pay the arrears in full.
19. Further, as the arrears are high nearing the monetary jurisdiction of the Board and the Tenant has not paid any rent in approximately half a year, I find that it would be unfair to grant relief from eviction.

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:**
 - \$31,986.00 if the payment is made on or before November 30, 2024. See Schedule 1 for the calculation of the amount owing.
- OR**
- \$34,636.00 if the payment is made on or before December 9, 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 December 9, 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 December 9, 2024.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$21,152.31. 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 \$87.12 per day for the use of the unit starting August 30, 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 December 9, 2024, the Tenant will start to owe interest. This will be simple interest calculated from December 10, 2024 at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before December 9, 2024, then starting December 10, 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 December 10, 2024.

November 28, 2024
Date Issued



Christopher Lin
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 June 10, 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.

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 November 30, 2024

Rent Owing To November 30, 2024	\$31,800.00
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	\$31,986.00

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before December 9, 2024

Rent Owing To December 31, 2024	\$34,450.00
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	\$34,636.00

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

Rent Owing To Hearing Date	\$23,726.48
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	- \$110.17
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	\$21,152.31
Plus daily compensation owing for each day of occupation starting August 30, 2024	\$87.12 (per day)