



Order under Section 69 Residential Tenancies Act, 2006

Citation: Saha v MacAulay, 2025 ONLTB 2236

Date: 2025-01-07

File Number: LTB-L-058344-24

In the matter of: 54, 125 BONAVENTURE DR
HAMILTON ON L9C5Y9

Between: Sudip Saha
Anwasha Sikder

And

Kelly MacAulay
Gordon MacAulay

I hereby certify this is a
true copy of an Order dated

JAN 07, 2025

Landlord and Tenant Board

Landlord

Tenant

Sudip Saha and Anwasha Sikder (the 'Landlord') applied for an order to terminate the tenancy and evict Kelly MacAulay and Gordon MacAulay (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

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

Only the Landlord, Sudip Saha, and the Landlord's Legal Representative, Muhammad Alam, attended the hearing.

As of 2:04 p.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.

While in the hearing I announced that I would grant termination of the tenancy on January 6, 2025, due to the date of issuance of this order, and that the Tenant was not present at the hearing to hear this pronouncement, that date would be inappropriate. As such I grant the order as issued below.

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 \$2,450.00. It is due on the 1st day of each month.

4. Based on the Monthly rent, the daily rent/compensation is \$80.55. This amount is calculated as follows: \$2,450.00 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 December 31, 2024 are \$17,150.00.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. There is no last month's rent deposit.
9. The Landlord seeks a termination of the tenancy as the rent arrears are substantial and the Tenant has not made any payments for a substantial period of time. The Landlord is having trouble paying his own living expenses and the expenses of the rental unit and has had to borrow money from friends and take loans in order to cover these expenses.
10. The Tenant did not attend to give evidence as to their personal circumstances. The Landlord testified that the Tenant did have children when they moved in, though the Landlord is not aware as to whether the children are still living in the rental unit.
11. 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.

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:**
 - \$19,786.00 if the payment is made on or before January 18, 2025. 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 January 18, 2025 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 January 18, 2025.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$15,127.65. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$80.55 per day for the use of the unit starting December 4, 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 January 18, 2025, the Tenant will start to owe interest. This will be simple interest calculated from January 19, 2025 at 5.00% annually on the balance outstanding.
8. If the unit is not vacated on or before January 18, 2025, then starting January 19, 2025, 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 January 19, 2025.

January 7, 2025

Date Issued

Benjamin Seigel

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 July 19, 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 January 18, 2025

Rent Owing To January 31, 2025	\$19,600.00
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	\$19,786.00

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

Rent Owing To Hearing Date	\$14,941.65
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	- \$0.00
Less the amount of the interest on the last month's rent deposit	- \$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 amount owing to the Landlord	\$15,127.65
Plus daily compensation owing for each day of occupation starting December 4, 2024	\$80.55 (per day)