



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

Citation: Bagai v Akhter, 2025 ONLTB 7549

Date: 2025-03-18

File Number: LTB-L-080864-24

In the matter of: BSMT, 41 LIONSHEAD LKOUT
BRAMPTON ON L6S3X2

Between: Shagun Bagai

And

Parveen Akhter
Tenzin Palkey
Kirandeep Kaur

I hereby certify this is a
true copy of an Order dated
Mar 18, 2025
Landlord and Tenant Board

Landlord

Tenant

Shagun Bagai (the 'Landlord') applied for an order to terminate the tenancy and evict Parveen Akhter, Tenzin Palkey and Kirandeep Kaur (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 20, 2025, and February 21, 2025

The Landlord, and the Landlord's legal representative, Vijay Shah, and the Tenant's Landlord's legal representative, Jimmy Gangadin, attended the hearing.

When the capitalized word "Landlord" is used in this order, it refers to all persons or companies identified as a landlord at the top of the order. 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.

Section 82 Issues:

1. At the hearing on January 20, 2025, the Tenants sought to raise issues under section 82 of the *Residential Tenancies Act, 2006* (the "Act") for my consideration. However, the Tenants submitted their section 82 documentation to the Board only one day prior to the hearing.
2. In addition, the Landlords and the Landlords' representative were not prepared to address the issues as they were brought forth at the last minute.
3. Pursuant to section 82 of the Act, a Tenants are permitted to raise any issue that could be the subject of an application if the Tenants complies with disclosure requirements or provides an explanation satisfactory to the Board explaining why the Tenants could not comply. Section 82(2) requires a Tenants to give advance notice to the Landlords of the Tenants' intent to raise the issue at the hearing and this notice shall be in writing. Pursuant to Board Rule of Procedure 19.4, the Tenants must provide the list of s.82 issues and the supporting evidence to the Landlords and the Board at least 7 days before the hearing.

4. The notice of hearing that the Tenants received for this hearing is accompanied by documents, one of which includes a blank form that the Tenants could have completed to disclose any Tenant issues. The Tenants therefore were made aware of the section 82 disclosure requirements and did not offer a satisfactory reason for not complying with them.
5. As such, I did not hear the Tenants' evidence regarding the section 82 issues. However, it should be noted that this does not preclude the Tenants from bringing their own application regarding any issues the Tenants wish to raise. They also may contact their local legal clinic to get advice in this regard.

Denied Adjournment request:

6. At the commencement of the hearing on February 21, 2025, the Tenant's Legal Representative requested an adjournment, stating that he had only been retained by the Tenant at the end of January 2025 and had not had the opportunity to review the evidence package before the hearing. The Legal Representative indicated that he had requested the PIN to access the Landlord and Tenant Board (LTB) portal on January 23, 2025, and again on February 18, 2025, but did not receive a response. As a result, he was unable to access the portal to review the evidence package or related files.
7. The Tenant's request for an adjournment was denied. This matter had previously been adjourned from January 20, 2025, due to insufficient time to complete the hearing. The Tenant was self-represented at the January 20, 2025, hearing and was fully aware of the case against them. Additionally, the Tenant had access to the LTB portal and had received the evidence package from the Landlord prior to the January 20, 2025, hearing. The Tenant subsequently chose to retain legal representation after the January 20 hearing and had the ability to provide all relevant documents to their Legal Representative.
8. The Tenant's Legal Representative did not provide an adequate explanation as to why he was unable to obtain the necessary documents from his client. When I adjourned the matter on January 20, 2025, I canvassed the parties and confirmed that all parties were available and prepared to proceed and complete the hearing on February 21, 2025. I find that the prejudice to the Landlord in further postponing the hearing outweighs any prejudice to the Tenant in proceeding, particularly given that the Tenant attended the previous hearing, was fully aware of the issues, and had already received the disclosure package.
9. Accordingly, the adjournment request was denied.

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 \$1,800.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$59.18. This amount is calculated as follows: \$1,800.00 x 12, divided by 365 days.
5. The Tenant has paid \$1,800.00 to the Landlord since the application was filed.
6. The rent owing period stated on the N4 Notice of Termination was from December 2023 to February 2024.
7. The Landlord claims that the rent arrears owing as of February 28, 2025, total \$25,200.00.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. 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 can only be applied to the last rental period of the tenancy if the tenancy is terminated.
10. Interest on the rent deposit, in the amount of \$66.58 is owing to the Tenant for the period from August 31, 2023, to February 21, 2025.

Standard Form Lease Agreement.

11. The Tenant argued that the Landlord did not provide them with a tenancy agreement in the prescribed form as required by section 12.1 of the Act. Relying on subsections 12/1(5) to (10) of the Act, the Tenant also argued that they were entitled to withhold 1 month's rent. The relevant provisions are:

12.1 (1) Every tenancy agreement that is entered into in respect of a tenancy of a prescribed class on or after the date prescribed for that class of tenancies shall comply with the following requirements:

- 1. The tenancy agreement shall be in the form prescribed for that class of tenancies.*
- 2. The tenancy agreement shall comply with the requirements prescribed for that class of tenancies.*

12.1(5) The tenant of a rental unit who is a party to a tenancy agreement described in subsection (4) may, once during the tenancy, demand in writing that the landlord provide to the tenant, for the tenant's signature, a proposed tenancy agreement that,

- (a) complies with subsection (1);*
- (b) is for the occupancy of the same rental unit; and*
- (c) is signed by the landlord.*

(6) If at least 21 days have elapsed since the day the tenant made the demand and the landlord has not complied with the demand, the tenant may, subject to

subsections (7) and (8), withhold rent payments that become due after the expiry of that 21-day period.

(7) The maximum total amount of rent payments that a tenant may withhold under subsection (6) is an amount equal to one month's rent.

(8) The tenant may not withhold rent payments under subsection (6) on or after the day the landlord complies with the demand.

(9) The landlord may require the tenant to pay to the landlord any rent payment withheld under subsection (6) only if the landlord complies with the tenant's demand for a proposed tenancy agreement no later than 30 days after the date of the first rent payment withheld under that subsection.

(10) The landlord may require the tenant to pay withheld rent payments under subsection (9) even if the tenant does not enter into the proposed tenancy agreement provided to the tenant by the landlord.

12. In this case, the Tenant testified they had a LTB dispute with the Landlord in 2024, where the Board found the Landlord failed to provide a copy of the lease agreement as of July 18, 2024. The Tenant stated they had not received a written lease agreement from the Landlord since that time.
13. The Landlord testified that upon receiving the LTB decision in August 2024, she promptly sent a signed copy of the OREA lease agreement to the Tenant. At the hearing, the Landlord's legal representative submitted an email and a copy of the OREA lease agreement as evidence. The email, dated August 30, 2024, was sent to the three Tenants with the lease agreement attached. The Landlord further testified that the Tenants had not returned the lease agreement with their signatures.
14. The Tenant argued they had a different version of the lease agreement and claimed the copy provided by the Landlord was not the original lease they had signed. However, the Tenant could not produce a copy of the original lease. The Landlord maintained that the OREA lease agreement she provided was the only copy she had and that it was sent to the Tenant on August 30, 2024.
15. The 21-day period from the prior LTB decision and the Tenant's demand on July 18, 2024, ended on August 8, 2024. The earliest rent period for which the Tenant could have withheld rent was September 2024. However, the Landlord provided the Tenant with the lease agreement on August 30, 2024, before the September rent due date. Accordingly, I find that the Landlord complied with section 12.1 of the Act, and the Tenant was not entitled to withhold the September 2024 rent. The total arrears claimed in the Landlord's N4 Notice of Termination cover December 1, 2023, to September 30, 2024. While the Tenant disputes the terms of the lease agreement, they may pursue this issue under a Tenant's Application. However, as the Landlord provided a copy of the lease agreement, the Tenant is not entitled to withhold rent.
16. I find the total rent arrears owed to February 28, 2025, amount to \$25,200.00. The Tenant's issue regarding the standard lease agreement is dismissed.

Relief from Eviction:

17. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to postpone the eviction until March 31, 2025, pursuant to subsection 83(1)(b) of the Act.
18. The Tenant submitted that they wish to vacate the rental unit and terminate the tenancy, requesting 30 days to do so. The Tenants are full-time students at Sheridan College and stated that they have midterm examinations and prefer to move out after completing their exams. The tenancy is relatively short, as the Tenant moved in during September 2023, and they fell into arrears shortly after the commencement of the tenancy.
19. Given the substantial amount of arrears and the fact that the Tenant has made only one payment since the application was filed, granting an additional 30 days would be unduly prejudicial to the Landlord. The termination date set in this order provides the Tenant with a reasonable opportunity to secure alternative accommodations while balancing the interests of both parties.

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:**
 - \$27,186.00 if the payment is made on or before March 31, 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 March 31, 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 March 31, 2025.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$22,962.20. 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 \$59.18 per day for the use of the unit starting February 22, 2025 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 March 31, 2025, the Tenant will start to owe interest. This will be simple interest calculated from April 1, 2025 at 5.00% annually on the balance outstanding.

8. If the unit is not vacated on or before March 31, 2025, then starting April 1, 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 April 1, 2025.



Joy Xiao
Member, Landlord and Tenant Board

March 18, 2025
Date Issued

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 October 1, 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 March 31, 2025

Rent Owing To March 31, 2025	\$28,800.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$1,800.00
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	\$27,186.00

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

Rent Owing To Hearing Date	\$26,442.78
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$1,800.00
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	- \$66.58
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	\$22,962.20
Plus daily compensation owing for each day of occupation starting February 22, 2025	\$59.18 (per day)