

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

**File Number:** TEL-89446-18

2018 CanLII 113149 (ON LTB)

J.W.F. (the 'Landlord') applied for an order to terminate the tenancy and evict Q.B. (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes. This is an L1 application.

The Landlord also applied for an order to terminate the tenancy and evict the Tenant because the Landlord requires possession of the rental unit for the purpose of residential occupation. This is an L2 application.

This application was heard in Toronto on April 3, 2018.

Only the Landlord attended the hearing.

**Determinations:**

**APPLICATION FOR NON-PAYMENT OF RENT**

1. The Tenant has not paid the total rent the Tenant was required to pay for the period from November 1, 2017 to April 30, 2018. Because of the arrears, the Landlord served a Notice of Termination effective March 14, 2018.
2. The Landlord collected a rent deposit of \$1,890.00 from the Tenant and this deposit is still being held by the Landlord.
3. Interest on the rent deposit is owing to the Tenant for the period from March 1, 2017 to March 14, 2018.

**APPLICATION FOR LANDLORD'S OWN USE**

4. I am satisfied the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation.
5. The Landlord stated that he is currently living in a rental unit and he no longer wants to rent out his home. The Landlord plans on living in the rental unit with his son.

6. He does not want to pay at another location while he has a place of his own he can move into. His current location has a parking issue he has to deal with as well.
7. The Landlord bought the rental unit last year and entered into a one year lease with the Tenant, which ended February 28, 2018. He has given his notice to vacate at his current location.
8. **Section 48.1 of the *Residential Tenancies Act, 2006* (the 'Act') states a landlord is obligated to compensate the tenant one month's rent when the landlord requires the rental unit for their own use. Here, the Tenant has failed to pay rent since November 2017; therefore, one month's rent will be waived in full satisfaction of section 48.1.**
9. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
10. This order contains all of the reasons for my decision within it. No further reasons shall be issued.

**It is ordered that:**

APPLICATION FOR NON-PAYMENT OF RENT

1. Unless the Tenant voids this portion of the order as set out below, the tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before April 15, 2018.
2. The Tenant shall pay to the Landlord \$5,919.54\*, which represents the amount of rent owing and compensation up to April 4, 2018, less the rent deposit and interest the Landlord owes on the rent deposit.
3. The Tenant shall also pay to the Landlord \$62.14 per day for compensation for the use of the unit starting April 5, 2018 to the date the Tenant moves out of the unit.
4. The Tenant shall also pay to the Landlord \$190.00 for the cost of filing the application.
5. If the Tenant does not pay the Landlord the full amount owing\* on or before April 15, 2018, the Tenant will start to owe interest. This will be simple interest calculated from April 16, 2018 at 3.00% annually on the balance outstanding.
6. If the unit is not vacated on or before April 15, 2018, then starting April 16, 2018, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
7. 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 16, 2018.

8. **If, on or before April 15, 2018, the Tenant pays the amount of \$9,640.00\*\* to the Landlord or to the Board in trust, this portion of this order for eviction will be void.** This means that the tenancy would not be terminated and the Tenant could remain in the unit. If this payment is not made in full and on time, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
9. The Tenant may make a motion to the Board under subsection 74(11) of the Act to set aside this order if they pay the amount required under that subsection on or after April 16, 2018 but before the Sheriff gives vacant possession to the Landlord. The Tenant is only entitled to make this motion once during the period of the tenancy agreement with the Landlord.

#### APPLICATION FOR LANDLORD'S OWN USE

10. If the Tenant voids the above portion of this order pursuant to paragraph 8 or 9 then the following shall apply:
11. The tenancy between the Landlord and the Tenant is terminated April 30, 2018. The Tenant must move out of the rental unit on or before April 30, 2018.
12. If the unit is not vacated on or before April 30, 2018, then starting May 1, 2018, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
13. 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 May 1, 2018.

**April 4, 2018**  
**Date Issued**

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Shelby Whittick  
Member, Landlord and Tenant Board

Toronto East-RO  
2275 Midland Avenue, Unit 2  
Toronto ON M1P3E7

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 16, 2018 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.

\* Refer to section A on the attached Summary of Calculations.

\*\* Refer to section B on the attached Summary of Calculations.

**Schedule 1  
SUMMARY OF CALCULATIONS**

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**A. Amount the Tenant must pay if the tenancy is terminated:**

<b>Reasons for amount owing</b>	<b>Period</b>	<b>Amount</b>
Arrears: (up to the termination date in the Notice of Termination)	November 1, 2017 to March 14, 2018	\$8,429.92
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	March 15, 2018 to April 4, 2018	\$1,304.94
Less the rent deposit:		-\$1,890.00
Less the interest owing on the rent deposit:	March 1, 2017 to March 14, 2018	-\$35.32
Less amount owing to the Tenant for compensation under section 48.1:		-\$1,890.00
Amount owing to the Landlord on the order date: (total of previous boxes)		<b>\$5,919.54</b>
Additional costs the Tenant must pay to the Landlord:		\$190.00
Plus daily compensation owing for each day of occupation starting April 5, 2018:		\$62.14 (per day)
<b>Total the Tenant must pay the Landlord if the tenancy is terminated:</b>		<b>\$6,109.54, + \$62.14 per day starting April 5, 2018</b>

**B. Amount the Tenant must pay to void the eviction order and continue the tenancy:**

<b>Reasons for amount owing</b>	<b>Period</b>	<b>Amount</b>
Arrears:	November 1, 2017 to April 30, 2018	\$11,340.00
Less amount owing to the Tenant for compensation under section 48.1:		-\$1,890.00
Additional costs the Tenant must pay to the Landlord:		\$190.00
<b>Total the Tenant must pay to continue the tenancy:</b>	On or before April 15, 2018	<b>\$9,640.00</b>