

Order under Section 69
Residential Tenancies Act, 2006

File Number: SOL-00776

In the matter of: [Address removed]

Between: [Landlord's name removed] Landlord

and

[Tenant's name removed] Tenant

[Landlord's name removed] (the 'Landlord') applied for an order to terminate the tenancy and evict [Tenant's name removed] (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard in Brantford on April 11, 2007.

Only the Landlord's representative, [Landlord Representative's name removed] attended the hearing.

Determinations:

1. The N4 notice to terminate the tenancy was invalid since it was served before the Tenant was in arrears of rent. The N4 notice was served on the Tenant on February 1, 2007 and it claimed February rent only. Section 59 of the *Residential Tenancies Act, 2006* states that if the Tenant fails to pay the rent lawfully owing then the Landlord can give the Tenant a notice of termination of the tenancy. On February 1, 2007 the Tenant had not yet failed to pay the rent lawfully owing since she had until midnight of that day to pay the rent before she would be considered to be in arrears. The N4 notice was served prematurely on the Tenant.
2. The Landlord chose to withdraw their application at the hearing.

It is ordered that:

1. The Landlord's application is withdrawn without prejudice.

April 12, 2007
Date Issued

Karen Wallace
Member, Landlord and Tenant Board

Southern Region
6th floor, 119 King Street West
Hamilton ON L8P 4Y7

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.