



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** Homesky Properties Inc. v Velauthapillai Sugunan, 2023 ONLTB 44457

**Date:** 2023-06-22

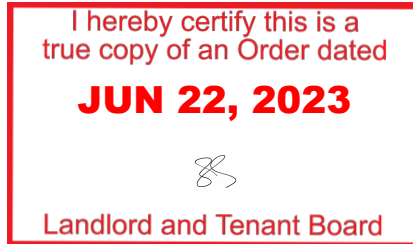
**File Number:** LTB-L-078947-22

**In the matter of:** 1411, 945 Midland Avenue  
Scarborough ON M1K4G5

**Between:** Homesky Properties Inc.

**And**

Velauthapillai Sugunan



Landlord

Tenant

Homesky Properties Inc. and Shi Jing Lin (the 'Landlord') applied for an order to terminate the tenancy and evict Velauthapillai Sugunan (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on June 8, 2023.

The Landlord's Agent Brian Kwok and the Landlord's Legal Representative Elena Grigorieva and the Tenant Velauthapillai Sugunan and the Tenant's Legal Representative W. Phang attended the hearing.

**Determinations:**

Adjournment Request

1. The Tenant did not initially attend the hearing. Mr. Phang requested an adjournment on the basis that the Tenant was ill and could not present himself to the Board. I noted the file was last before the Board on December 8, 2021 and adjourned on that date because the Tenant was ill and could not participate in the hearing. The Landlord was opposed to the adjournment request citing the mounting rent arrears and the prejudice they would experience if the file were adjourned again.
2. The Board issues Interim Order TEL-19189-21-IN which was the previous file number for this matter. The Tenant was ordered to submit medical evidence to support their inability to participate in the hearing on December 8, 2021. The Tenant was ordered to submit this evidence by December 20, 2021. As of the hearing date on June 8, 2023, no evidence had been submitted by the Tenant. Mr. Phang had no explanation as to why this was not done apart from the Tenant not providing it to him.
3. Mr. Phang submitted a note from a doctor dated June 6, 2023. Mr. Phang stated the Tenant's health condition is deteriorating. The note states the Tenant was seen at a clinic with a significant medical problem/illness and should rest at home for two weeks pending clinical reassessment. I found the note vague. It did not say the Tenant could not

participate in the hearing. It said he should rest at home. I saw no reason why the Tenant could not call into the virtual hearing and participate. I was also mindful the Tenant chose not to substantiate the previous adjournment with medical evidence as ordered. I denied the adjournment request and held the matter down to give Mr. Phang the opportunity to call the Tenant and have him attend, given he should be at home.

4. I recalled the file later in the day and the Tenant was present and on camera. He exhibited no visual signs of illness and made no mention of any illness he was currently experiencing that would inhibit his participation in the hearing. As a result, the matter proceeded and the Tenant participated fully.

#### L1 Application

5. At the hearing the Landlord relied on oral submissions and referred to documents to support their application. The Tenant was also given an opportunity to provide submissions and evidence.
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 \$1,900.00. It is due on the 1st day of each month.
9. Based on the Monthly rent, the daily rent/compensation is \$62.47. This amount is calculated as follows:  $\$1,900.00 \times 12$ , divided by 365 days.
10. The Tenant has paid \$400.00 to the Landlord since the application was filed. The Interim Order previously issued when the file was adjourned ordered the Tenant to pay the monthly rent on an ongoing basis until the file is disposed of or the Board orders otherwise. The Tenant did not comply with the Interim Order and has made no additional payments.
11. The rent arrears owing to June 30, 2023 are \$43,100.00. This amount was not disputed by the Tenant.
12. I advised the Landlord the Board's monetary jurisdictional limit is \$35,000.00 and that if the Board issues an order for this amount, any amount exceeding the \$35,000.00 would be extinguished and could not be pursued in any other forum. The Landlord confirmed they understood and wanted to proceed.
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 \$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.
15. Interest on the rent deposit, in the amount of \$65.49 is owing to the Tenant for the period from June 18, 2021 to June 8, 2023.

16. The Landlord sought an eviction within 11 days of this order citing the significant rent arrears. The Tenant acknowledged he had received communications from the Landlord regarding repayment of the rent arrears. He stated he chose not to respond or engage in conversations with the Landlord because he was not in a position to make a payment arrangement.
17. The Tenant explained that he lost his employment due to the Covid-19 pandemic. He has not worked since 2021. His current monthly income is \$800.00 from welfare. The Tenant's evidence was he has two roommates that do not provide any money that he can pay the Landlord. He has lived in the rental unit for approximately two year's time.
18. The Tenant's evidence was he is single and has no children. He stated he suffers from mental and physical issues including panic attacks, sleep disorders, high blood pressure and type 2 diabetes.
19. The Tenant stated he expects to be working full time within two months because his "health is getting better". I noted this statement was inconsistent with the earlier request by Mr. Phang to adjourn the file.
20. Based on the Tenant's current monthly income and no firm commitment of employment, I found the tenancy no longer sustainable.
21. 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. I was not satisfied the circumstances of the Tenant supported a finding termination should be denied or delayed.

**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:**
  - \$43,286.00 if the payment is made on or before June 30, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

  - \$45,186.00 if the payment is made on or before July 3, 2023. 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 July 3, 2023 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 July 3, 2023**

5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$35,000.00. 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. This amount is capped at the Board's monetary limit of \$35,000.00. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$62.47 per day for the use of the unit starting June 9, 2023 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 July 3, 2023, the Tenant will start to owe interest. This will be simple interest calculated from July 4, 2023 at 6.00% annually on the balance outstanding.
8. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
9. If the unit is not vacated on or before July 3, 2023, then starting July 4, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
10. 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 July 4, 2023.

**June 22, 2023**  
**Date Issued**



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John Cashmore  
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 January 4, 2024 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 June 30, 2023**

Rent Owing To June 30, 2023	\$43,500.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$400.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$43,286.00</b>

**B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before July 3, 2023**

Rent Owing To July 31, 2023	\$45,400.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$45,186.00</b>

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

Rent Owing To Hearing Date	\$42,099.76
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$400.00
<b>Less</b> the amount of the last month's rent deposit	- \$1,800.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$65.49
<b>Total amount owing to the Landlord</b>	<b>\$40,020.27</b>
<b>Total amount owing to the Landlord based on the Board's monetary limit</b>	<b>\$35,000.00</b>
Plus daily compensation owing for each day of occupation starting June 9, 2023	\$62.47 (per day)