



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

Citation: ZOLIS v ORTEGA, 2023 ONLTB 19836

Date: 2023-02-13

File Number: LTB-L-058121-22

In the matter of: BACK APT (APT B), 274 JANE STREET
TORONTO ON M6S3Z2

Between: PERRY ZOLIS and THOMAS ZOLIS

And

LIZA ORTEGA and RAFAEL ORTEGA

I hereby certify this is a
true copy of an Order dated
FEB 6, 2023
Landlord and Tenant Board

Landlord

Tenants

PERRY ZOLIS and THOMAS ZOLIS (the 'Landlord') applied for an order to terminate the tenancy and evict LIZA ORTEGA and RAFAEL ORTEGA (the 'Tenants') because the Tenants did not pay the rent that the Tenant owes.

This application was heard by videoconference on February 2, 2023.

The Landlord and both Tenants attended the hearing.

Determinations:

1. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenants 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 Tenants were still in possession of the rental unit.
3. The lawful rent is \$1,742.50. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$57.29. This amount is calculated as follows: \$1,742.50 x 12, divided by 365 days.
5. The Tenants have not made any payments since the application was filed.
6. The rent arrears owing to February 28, 2023 are \$18,785.00.
7. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$1,700.00 from the Tenants 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.
9. Interest on the rent deposit, in the amount of \$25.41 is owing to the Tenants for the period from December 22, 2021 to February 2, 2023.

Relief from eviction:

10. The Tenant, Rafael Ortega submits that he become unemployed in August, 2022 but that he started working again in the first week of October, 2022 and earns approximately \$900.00 every week. The Tenant, Liza Ortega is a housewife, looking after their 11 year old special needs child. It was also submitted that their child takes a school bus to their school which is a ½ hour drive away. The Tenants state they would need additional time to locate alternative accommodations .
11. The Tenants state that they have found it difficult to communicate with the Landlord and that they did not pay any rent to the Landlord as they focused instead on paying their hydro arrears. The Tenants state that they had in the past paid rent to the Landlord by e-transfer.
12. The Landlord submits that although he holds no mortgage on the property, he is still experiencing financial hardship as the Tenants have not paid rent for some time and arrears are substantial. The Landlord stated that he spoke to the Tenants in June about their situation but that the Tenants refused to seek social assistance and relied upon their savings and gift cards to support them. The Landlord seeks a standard order.
13. There was no evidence that would explain why the Tenants ceased paying rent to the Landlord starting in April, 2022. The evidence before the Board was that the Tenant became unemployed in August, 2022 and that was the reason why the rent had not been paid. However, the Tenant Rafael Ortega testified that he has been gainfully employed since the first week of October, 2022 but still has not paid any rent to the Landlord. The Tenants did not seek assistance from social agencies, did not communicate with the Landlord as to their situation and chose to pay other entities rather than pay rent.
14. Given the circumstances before me, although the Tenants have not made any attempts to pay rent to the Landlord for quite some time, I recognize that the Tenants have a child and they shall be given some additional time to locate accommodations. 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 February 28, 2023 pursuant to subsection 83(1)(b) of the Act. This additional time will provide the Tenants with an opportunity to locate alternative accommodations.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants void this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$18,986.00 if the payment is made on or before February 28, 2023. See Schedule 1 for the calculation of the amount owing.
3. The Tenants may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenants have paid the full amount owing as ordered plus any additional rent that became due after February 28, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.

4. **If the Tenants do not pay the amount required to void this order the Tenants must move out of the rental unit on or before February 28, 2023.**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$15,632.67. 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 Tenants shall also pay the Landlord compensation of \$57.29 per day for the use of the unit starting February 3, 2023 until the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before February 24, 2023, the Tenant will start to owe interest. This will be simple interest calculated from February 25, 2023 at 5.00% annually on the balance outstanding.
8. If the unit is not vacated on or before February 28, 2023, then starting March 1, 2023, 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 March 1, 2023.

February 6, 2023
Date Issued


Heather Chapple
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 September 1, 2023 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 February 28, 2023

Rent Owing To February 28, 2023	\$18,785.00
Application Filing Fee	\$201.00
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	\$18,986.00

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

Rent Owing To Hearing Date	\$17,157.08
Application Filing Fee	\$201.00
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	- \$1,700.00
Less the amount of the interest on the last month's rent deposit	- \$25.41
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	\$15,632.67
Plus daily compensation owing for each day of occupation starting February 3, 2023	\$57.29 (per day)