



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

Citation: Pham v Oromitan, 2024 ONLTB 26884

Date: 2024-04-26

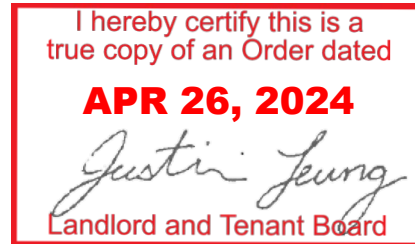
File Number: LTB-L-056150-23

In the matter of: 33 LOU POMANTI ST
TORONTO ON M9M0C3

Between: Hong Anh Pham

And

Grace Oromitan
Prince Edoh



Landlord

Tenants

Hong Anh Pham (the 'Landlord') applied for an order to terminate the tenancy and evict Grace Oromitan and Prince Edoh (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on April 2, 2024.

Only the Landlord's Legal Representative, Jordan Nieuwhof, attended the hearing.

As of 2:11 pm, the Tenants were not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Preliminary Matter:

1. The Landlord's Legal Representative requested that the Board award legal costs. He stated that the Tenants had previously requested an adjournment at the December 19, 2023 hearing, due to medical condition which prevented the Tenant from participating. An Interim Order, dated January 19, 2024, was issued which requested the Tenants provide documentation in support of this condition to the Board. They were also requested to provide documentation as they raised issues with the claimed arrears, section 82 tenant issues and disputed whether this was a joint tenancy.
2. In review of the Tribunals Ontario Portal (TOP) file, it appears none of the above-noted information has been provided. The Tenants were also not in attendance at this April 2, 2024 hearing. The Landlord's Legal Representative asserts the Tenants have engaged in an 'abuse of process' to delay the proceedings.
3. Section 204 of the Residential Tenancies Act, 2006 (the 'Act') and Interpretation Guideline 3, states a Member has the discretion to require a party, a party's agent or a party's legal representative to pay, as costs, any representation or preparation expenses of another

party where the conduct of the party, a party's agent or a party's legal representative was unreasonable. Conduct is unreasonable if it causes undue expense or delay and includes the following:

- i. Bringing a frivolous or vexatious application or motion.
- ii. Initiating an application or any procedure in bad faith.
- iii. Taking unnecessary steps in a proceeding.
- iv. Failing to take necessary steps, such as those required by the RTA or Rules.
- v. Any misconduct at the hearing or in the proceeding.
- vi. Raising an issue which is irrelevant to the proceedings and continuing to pursue that issue after the Member has pointed out that it is irrelevant.
- vii. Asking for adjournments or delays without justification.
- viii. Failing to prepare adequately for the hearing.
- ix. Acting contemptuously toward the Member or showing a lack of respect for the process or the Board.
- x. Failing to follow the directions of the Member or upsetting the orderly conduct of the hearing; and
- xi. Maligning another party or unreasonably slurring the character of the other party.

4. Examples of failing to comply with the Act or Rules could include the following situations:

- a. Failing to follow a procedural order or direction such as an order to serve another party with a document;
- b. Serving another party in a way which was not appropriate;
- c. Delaying the hearing by not taking actions required in the Rule
- d. Initiating an application or any procedure in bad faith;

5. Therefore, I find that the Tenants conduct, in not providing the documentation as outlined in the Interim Order, and not attending this hearing, is unreasonable and caused undue expense to the Landlord for representation/preparation fees.

6. For these reasons, the Landlord's request for costs is granted. The Landlord's Legal Representative requested costs in the amount of \$100.00 per hour, for one hour of time for preparation and attendance. In my opinion the request is reasonable and in accordance with the Act and Rule 23.2 of the Board's Rules of Procedure and will issue requiring the Landlord to pay the Tenant's representation costs in the sum of \$100.00.

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. The Tenants were in possession of the rental unit on the date the application was filed.
3. Based on the uncontested evidence of the Landlord that the Tenants advised they were moving out, and the Landlord inspected the unit and found it empty, I find the Tenants

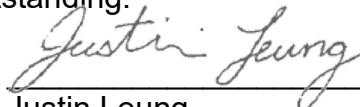
vacated the rental unit on January 3, 2024. Rent arrears are calculated up to the date the Tenants vacated the unit.

4. The lawful rent is \$2,900.00. It was due on the 1st day of each month.
5. The Tenants have not made any payments since the application was filed.
6. The rent arrears owing to January 3, 2024 are \$23,486.02.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$2,900.00 from the Tenants and this deposit is still being held by the Landlord. The rent deposit is applied to the arrears of rent because the tenancy terminated.
9. Interest on the rent deposit, in the amount of \$107.89 is owing to the Tenants for the period from December 1, 2021 to January 3, 2024.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated as of January 3, 2024, the date the Tenant moved out of the rental unit.
2. The Tenants shall pay to the Landlord \$20,764.13. This amount includes rent arrears owing up to the date the Tenants moved out of the rental unit and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit is deducted from the amount owing by the Tenants. Legal costs awarded to the Landlord have also been included. See Schedule 1 for the calculation of the amount owing.
3. If the Tenants do not pay the Landlord the full amount owing on or before May 7, 2024, the Tenants will start to owe interest. This will be simple interest calculated from May 8, 2024 at 7.00% annually on the balance outstanding.

April 26, 2024
Date Issued


Justin Leung
Member, Landlord and Tenant Board

15 Grosvenor St, 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.

**Schedule 1
SUMMARY OF CALCULATIONS**

A. Amount the Tenants must pay as the tenancy is terminated

Rent Owing To Move Out Date	\$23,486.02
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$2,900.00
Less the amount of the interest on the last month's rent deposit	- \$107.89
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
Legal costs awarded to the Landlord	\$100.00
Total amount owing to the Landlord	\$20,764.13