



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

Citation: Clavis Property Management Inc. as Managers for Denny Cheng v Lopez, 2023 ONLTB 71261

Date: 2023-10-30

File Number: LTB-L-019742-23

In the matter of: 2311, 195 REDPATH AVE
Toronto ON M4P0E4

Between: Clavis Property Management Inc. as Managers for Denny Cheng Landlord

And

Jose-Andres Lopez Tenant

Clavis Property Management Inc. as Managers for Denny Cheng (the 'Landlord') applied for an order to terminate the tenancy and evict Jose-Andres Lopez (the 'Tenant') because the Tenant has been persistently late in paying the Tenant's rent.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on October 18, 2023.

The Landlord's Agent and Property Manager Jeffrey Cheng, and the Landlord's Representative Kimberley Covey attended the hearing.

As of 10:44 a.m., the Tenant was 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.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. However, in accordance with s.83 of the *Residential Tenancies Act, 2006* (the 'Act') I have determined it fair to grant relief from eviction. Therefore, I find that a pay on time order is appropriate.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. The Tenant was in possession of the rental unit on the date of the hearing.

N8 Notice of Termination:

4. On February 22, 2023, the Landlord gave the Tenant an N8 notice of termination deemed served on February 28, 2023. The notice of termination contains the following allegations:

That between June 1, 2022 and February 1, 2023 rent was not paid on time on 9 occasions.

Persistently Late:

5. The Landlord entered a ledger of payments made by the Tenant into evidence and a series of e-transfer receipts and pointed to the dates listed on the N8 notice of termination in order to indicate that rent was not paid on the date it became due and payable. I find that:
 - Rent for June 1, 2022 was paid June 30, 2022 as listed on the N8 Notice and the ledger of payments.
 - Rent for July 1, 2022 was paid July 30, 2022 as listed on the N8 Notice and the ledger of payments.
 - Rent for August 1, 2022 was paid September 2, 2022 as listed on the N8 Notice and the ledger of payments.
 - Rent for September 1, 2022 was paid on October 3, 2022 as listed on the N8 Notice and the ledger of payments.
 - Rent for October 1, 2022 was paid on December 7, 2022 as listed on the N8 Notice and the ledger of payments.

From after these dates, the N8 Notice appears to be inaccurate with respect to the dates the Tenant made payments. According to the ledger and e-transfer receipts it appears that:

- Rent due on November 1, 2022 was paid January 14, 2023 and not on December 7, 2022 as listed on the N8 Notice.
- Rent due on December 1, 2022 was paid February 15, 2023 and not on January 14, 2023 as listed on the N8 Notice.
- Rent due for January 1, 2023 was not paid according to the ledger of payments, though the N8 lists a payment as being received February 15, 2023.

Then subsequently, rent for February 1, 2023 does appear to have not been paid in accordance with the ledger and as listed on the N8 Notice. Hence, the Landlord has proven that the Tenant persistently failed to pay rent on the date it became due and payable per section 58(1)(1) of the Act based on six instances within the period claimed.

Relief from Eviction:

6. When asked if they were aware of any reasons which would warrant a delay or denial of an eviction, the Landlord's Agent stated they were not aware of any and added that in the days after the termination date, from May 1, 2023 onward to October of 2023 the Tenant has not paid rent. Given the errors outlined above with the N8 Notice however, and the pattern of lateness outlined I find that a pay on time order is appropriate.
7. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act and find that it would not be unfair to grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.

It is ordered that:

8. The Tenant shall pay their lawful rent in full and on time on or before the first day of each month commencing December 1, 2023 and through to and including November 1, 2024.
9. If the Tenant fails to comply with the conditions set out in paragraph 8 of this order, the Landlord may apply under section 78 of the Act for an order terminating the tenancy and evicting the Tenant. The Landlord must make the application within 30 days of a breach of a condition. This application is made to the LTB without notice to the Tenant.
10. As the Landlord has incurred the filing fee of \$186.00 the Tenant shall pay \$186.00 to the Landlord on or before November 30, 2023.
11. If the Tenant does not pay the Landlord the filing fee of \$186.00 on or before November 30, 2023 the Tenant will start to owe interest. This will be simple interest calculated from December 1, 2023 at 7.00% annually on the balance outstanding.

October 30, 2023
Date Issued



Madeline Ntoukas
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.