



June 2 2023

Landlord and Tenant Board

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

Citation: Das v Rahman, 2023 ONLTB 41067

Date: 2023-06-02

File Number: LTB-L-057119-22

In the matter of: 28 SHIRLEY CRES
SCARBOROUGH ON M1M1L1

Between: Shapna Das Landlord

And

Mizanur Rahman and Sultana Rahman Tenants

Shapna Das (the 'Landlord') applied for an order to terminate the tenancy and evict Mizanur Rahman and Sultana Rahman (the 'Tenants') because the Tenants did not pay the rent that the Tenants owes.

This application was heard by videoconference on April 13, 2023.

The Landlord, the Landlord's representative C Nastas and the Tenant S Khanam 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 \$2,700.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$88.77. This amount is calculated as follows: \$2,700.00 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 April 30, 2023 are \$21,600.00. The Tenants do not dispute the amount of rent arrears.
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 \$2,700.00 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 \$90.47 is owing to the Tenants for the period from June 4, 2021 to April 13, 2023.

Relief from Eviction


10. The Tenant S Khanam testified that she applied for subsidized housing in August 2022, but has not received a response as of the hearing date. There are 3 children in the rental unit, one child has special needs and is not in school, one child attends grade 5 and one child attends high school. The Tenant requested an extended termination date so the children could complete their school year and to allow the Tenants to continue to seek alternative housing.
11. The Landlord objected to the Tenants' request, stating that they needed financial support as well and that the Tenants owe significant arrears.
12. 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 June 30, 2023 pursuant to subsection 83(1)(b) of the Act. The brief postponement will allow the Tenants' children to complete their school year and allow the Tenants some time to find suitable alternative housing, while not unduly prejudicing the Landlord.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants voids this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$27,186.00 if the payment is made on or before June 30, 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 has paid the full amount owing as ordered plus any additional rent that became due after June 30, 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 does not pay the amount required to void this order the Tenants must move out of the rental unit on or before June 30, 2023**
5. If the Tenants does not void the order, the Tenants shall pay to the Landlord \$17,449.54. 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 Tenants. See Schedule 1 for the calculation of the amount owing.
6. The Tenants shall also pay the Landlord compensation of \$88.77 per day for the use of the unit starting April 14, 2023 until the date the Tenants moves out of the unit.

7. If the Tenants does not pay the Landlord the full amount owing on or before June 13, 2023, the Tenants will start to owe interest. This will be simple interest calculated from June 14, 2023 at 6.00% annually on the balance outstanding.
8. The Landlord or the Tenants 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 June 30, 2023, then starting July 1, 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 1, 2023.

June 2, 2023
Date Issued



Heather Kenny
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 1, 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 Tenants 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	\$27,000.00
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 the Landlord owes the Tenants for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$27,186.00

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

Rent Owing To Hearing Date	\$20,054.01
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	- \$2,700.00
Less the amount of the interest on the last month's rent deposit	- \$90.47
Less the amount the Landlord owes the Tenants for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$0.00
Total amount owing to the Landlord	\$17,449.54
Plus daily compensation owing for each day of occupation starting April 14, 2023	\$88.77 (per day)