

Order under Section 69
Residential Tenancies Act, 2006

File Number: TNL-22908-19

In the matter of: 28 EMERY HILL BLVD
MARKHAM ON L6C2W7

Between: Shan Lin Landlord

and

Jing (aka Jimmy) Yao Tenant

Shan Lin (the 'Landlord') applied for an order to terminate the tenancy and evict Jing (aka Jimmy) Yao (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes and because the Tenant has been persistently late in paying the rent.

This application was heard in Passcode 898 832 726# on May 13, 2021.

The Landlord, the Landlord's representative, R. W. Yu, and the Tenant attended the hearing.

Determinations:

1. The Tenant has not paid the total rent the Tenant was required to pay for the period from September 30, 2019 to December 29, 2019. Because of the arrears, the Landlord served a Notice of Termination effective November 27, 2019.
2. The Landlord collected a rent deposit of \$2,500.00 from the Tenant and this deposit is still being held by the Landlord.
3. Interest on the rent deposit is owing to the Tenant for the period from October 27, 2017 to November 27, 2019.
4. The Tenant paid \$15,055.00 after the application was filed.
5. The Tenant did not contest the Landlord's allegation that he has not paid rent for more than one year such that the rent owing as of the date of the hearing of this matter exceeded the \$35,000.00 maximum which the Board may award for rental arrears.
6. The Tenant testified that he has been constrained due to the pandemic lockdown orders from venturing from the unit and has not been able to pursue employment of any kind since he lost his job at the outset of the COVID pandemic. He considered that his life was

in danger because of the pandemic and so has saved whatever money he has had rather than applying it to any payment of rent.

7. The Tenant offered a number of repayment proposals which I did not consider either realistic or fair to the Landlord.
8. Neither party expressly addressed, in the hearing, the Landlord's application for termination on the basis of persistent late payment of rent. The Landlord's representative indicated that the Landlord sought a "standard order" which is an order commonly issued by the Board which terminates the tenancy but gives a Tenant eleven days from the date of the order to void the termination by paying the arrears and application fee.
9. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate an agreement with the Tenant, including terms of payment for the Tenant's arrears, and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

It is ordered that:

1. Unless the Tenant voids the order as set out below, the tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before June 11, 2021.
2. The Tenant shall pay to the Landlord \$35,000.00*, which represents the amount of rent owing and compensation up to May 31, 2021, less the rent deposit and interest the Landlord owes on the rent deposit.
3. The Tenant shall also pay to the Landlord \$84.00 per day for compensation for the use of the unit starting June 30, 2021 to the date the Tenant moves out of the unit.
4. The Tenant shall also pay to the Landlord \$190.00 for the cost of filing the application.
5. If the Tenant does not pay the Landlord the full amount owing* on or before June 11, 2021, the Tenant will start to owe interest. This will be simple interest calculated from June 12, 2021 at 2.00% annually on the balance outstanding.
6. If the unit is not vacated on or before June 11, 2021, then starting June 12, 2021, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
7. 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 June 12, 2021.
8. If, on or before June 11, 2021, the Tenant pays the amount of \$35,190.00** to the Landlord or to the Board in trust, this order for eviction will be void. This means that the tenancy would not be terminated and the Tenant could remain in the unit. If this payment

is not made in full and on time, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.

9. This order terminates the tenancy and permits the Landlord to file the order with Court Enforcement Office (Sheriff) to evict the Tenant. However, as of the date this matter was heard, the Sheriff cannot enforce this order as a result of Ontario Regulation 266/21 made under the *Emergency Management and Civil Protection Act* on April 8, 2021. The Tenant cannot be evicted from the rental unit while this regulation is in force. Eviction by the Sheriff may occur after the regulation is removed by the Ontario Government.
10. The Tenant may make a motion to the Board under subsection 74(11) of the Act to set aside this order if they pay the amount required under that subsection on or after June 12, 2021 but before the Sheriff gives vacant possession to the Landlord. The Tenant is only entitled to make this motion once during the period of the tenancy agreement with the Landlord.



May 31, 2021
Date Issued

Lynn Mitchell
Member, Landlord and Tenant Board

Toronto North-RO
47 Sheppard Avenue East, Suite 700, 7th Floor
Toronto ON M2N5X5

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 December 12, 2021 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.

* Refer to section A on the attached Summary of Calculations.

** Refer to section B on the attached Summary of Calculations.

**Schedule 1
SUMMARY OF CALCULATIONS**

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A. Amount the Tenant must pay if the tenancy is terminated:

Reasons for amount owing	Period	Amount
Arrears:	September 30, 2019 to May 31, 2021	\$37,730.00
Less the rent deposit:		-\$2,500.00
Less the interest owing on the rent deposit:	October 27, 2017 to November 27, 2019	-\$94.07
Amount owing to the Landlord on the order date: (lesser of the total of previous boxes and \$35,000.00)		\$35,000.00
Additional costs the Tenant must pay to the Landlord:		\$190.00
Plus daily compensation owing for each day of occupation starting June 30, 2021:		\$84.00 (per day)
Total the Tenant must pay the Landlord if the tenancy is terminated:		\$35,190.00 + \$84.00 per day starting June 30, 2021

B. Amount the Tenant must pay to void the eviction order and continue the tenancy:

Reasons for amount owing	Period	Amount
Arrears (to a maximum of \$35,000.00):	September 30, 2019 to June 29, 2021	\$35,000.00
Additional costs the Tenant must pay to the Landlord:		\$190.00
Total the Tenant must pay to continue the tenancy:	On or before June 11, 2021	\$35,000.00