



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

**Citation:** Jama Property Management v Martinez, 2023 ONLTB 16669

**Date:** 2023-01-23

**File Number:** LTB-L-029711-22

**In the matter of:** 17, 91 HIGH ST  
LONDON ON N6C4J8

**Between:** Jama Property Management Landlord

**And**

Samuel Martinez Tenant

Jama Property Management (the 'Landlord') applied for an order to terminate the tenancy and evict Samuel Martinez (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 19, 2023.

Only the Landlord's Agent, Rob Light, attended the hearing.

As of 9:51 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. The Landlord served the Tenant with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenant 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 Tenant was still in possession of the rental unit.
3. The lawful rent is \$781.63. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$25.70. This amount is calculated as follows: \$781.63 x 12, divided by 365 days.
5. The Tenant has paid \$3,065.00 to the Landlord since the application was filed.
6. The rent arrears owing to January 31, 2023 are \$4,577.12.
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 \$675.00 from the Tenant 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 \$67.08 is owing to the Tenant for the period from June 24, 2016 to January 19, 2023.
10. The Landlord's Agent presented a previously agreed to payment plan with the Tenant that he requested be the basis for this order. I accepted the Landlord's Agent's submission.
11. Therefore, having considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), I 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:**

1. The Landlord's application for eviction of the Tenant is denied on the condition that:
  - (a) The Tenant shall pay the Landlord **\$780.00** on or before February 1, 2023.
  - (b) The Tenant shall pay installments of **\$1,400.00** on or before the 1st day of the month for the seven (7) month period commencing March 1, 2023 to September 1, 2023.
  - (c) The remaining balance of **\$1,217.79** shall be paid on or before October 1, 2023.
2. If the Tenant fails to make any of the payments in accordance with paragraph 1, and by the dates required then:
  - (a) The Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the "Act") for an order terminating the tenancy and evicting the Tenant and for the payment of any new arrears of rent and NSF charges not already ordered under paragraph 1 of this order. The Landlord must make the application within 30 days of a breach of a condition set out in paragraph 1 of this order.
  - (b) The balance owing under paragraph 1 of this order shall become payable on the day following the date of default. The monies owing shall bear interest at the post-judgment interest rate determined under subsection 207(7) of the Act.

**January 23, 2023**

**Date Issued**

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 Michael Di Salle  
 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.