



Order under Section 21.2 of the  
**Statutory Powers Procedure Act**  
and the **Residential Tenancies Act, 2006**

**File Number:** EAL-98303-21-RV

**In the matter of:** 1326 FONTENAY CRESCENT  
OTTAWA ON K1V7K8

**Between:** Maya Jelali

**and**

Abel Solano Santana

I hereby certify this is a  
true copy of an Order dated

**Jul 26, 2022**

Landlord and Tenant Board

Landlord

Tenant

**Review Order**

Maya Jelali (the 'Landlord') applied for an order to terminate the tenancy and evict Abel Solano Santana (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order EAL-98303-21 issued on April 27, 2022.

On May 9, 2022, the Landlord requested a review of the order.

The request was heard via videoconference on July 6, 2022. The Landlord and the Tenant attended the hearing. The Tenant declined the opportunity to speak with Tenant Duty Counsel before the hearing.

**Determinations:**

Request to Review

1. The Landlord submitted that EAL-98303-21 issued on April 27, 2022 contained a serious error. Specifically, the Landlord stated in her application and submitted into evidence that she collected a last month's rent deposit in the amount of \$9,500.00 although the amount collected was \$2,900.00.
2. At the review hearing, the Landlord testified that this was a clerical error on the part of the Landlord. Submitted into evidence was the lease agreement and E-transfers showing that the amount collected was \$2,900.00. The Tenant agreed that only \$2,900.00 was collected.
3. On a balance of probabilities, I find that this was a procedural error which raises issues of natural justice. The result of this error was that the Tenant was ordered to pay less than

he was required to void the order, based on the incorrectly stated last month's rent deposit of \$9,500.00.

4. On this basis, I am satisfied that the order contains a serious error. As a result, the order is cancelled, and the Landlord's application was heard afresh.

De Novo

5. The Tenant has not paid the total rent the Tenant was required to pay for the period from March 1, 2021 to July 31, 2022. Because of the arrears, the Landlord served a Notice of Termination effective November 1, 2021.
6. The Tenant is in possession of the rental unit.
7. The lawful monthly rent is \$2,900.00.
8. The Landlord collected a rent deposit of \$2,900.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit is owing to the Tenant for the period from August 15, 2020 to November 1, 2021.
9. The Tenant paid \$28,800.00 after the application was filed.
10. 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 a repayment agreement with the Tenant, and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
11. The Tenant stated that he was confident he could pay the outstanding arrears by July 20, 2022. He recently started working a new contract. He testified to his income and expenses. He also testified that if the tenancy was terminated, he would be severely prejudiced. He is involved in court proceedings that require him to reside at this unit and his three daughters recently moved in with him.
12. The Landlord submitted that the tenancy cannot continue. She testified that she cannot go on maternity leave because she is required to work due to the Tenant's inability to pay the rent in full and on time. She relies on a line of credit to pay for the Tenant's arrears.
13. In consideration of the Tenant's income and expenses, the Tenant can afford to continue residing in the unit and it appears he can pay the outstanding arrears by the date stated. As such, the standard termination date will provide the Tenant with an opportunity to provide the Landlord with the funds needed to void this order. While the Landlord is frustrated by the Tenant's late payment of rent, the Landlord can file a separate application in this regard.

**It is ordered that:**

1. Order EAL-98303-21 issued on April 27, 2022 is cancelled and replaced by the following: 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 August 6, 2022.
2. The Tenant shall pay to the Landlord \$3,347.62\*, which represents the amount of rent owing and compensation up to July 26, 2022, less the rent deposit and interest the Landlord owes on the rent deposit.
3. The Tenant shall also pay to the Landlord \$95.34 per day for compensation for the use of the unit starting July 27, 2022 to the date the Tenant moves out of the unit.
4. If the unit is not vacated on or before August 6, 2022, then starting August 7, 2022, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
5. 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 August 7, 2022.
6. If the Tenant wishes to void this order and continue the tenancy, the Tenant must pay to the Landlord or to the Board in trust:
  - i) \$6,800.00 if the payment is made on or before July 31, 2022, or
  - ii) \$9,700.00 if the payment is made on or before August 6, 2022\*\*.
7. If the Tenant does not make full payment in accordance with this paragraph and by the appropriate deadline, then the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
8. 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 August 7, 2022 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.

**July 26, 2022**  
**Date Issued**

  
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Camille Tancioco  
Member, Landlord and Tenant Board

Eastern-RO  
255 Albert Street, 4th Floor  
Ottawa ON K1P6A9

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 February 7, 2023 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**

**File Number: EAL-98303-21**

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

<b>Reasons for amount owing</b>	<b>Period</b>	<b>Amount</b>
Arrears: (up to the termination date in the Notice of Termination)	March 1, 2021 to November 1, 2021	\$9,595.34
Less the amount the Tenant paid to the Landlord		-\$28,800.00
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	November 2, 2021 to July 26, 2022	\$25,455.78
Less the rent deposit:		-\$2,900.00
Less the interest owing on the rent deposit:	August 15, 2020 to November 1, 2021	-\$3.50
Amount owing to the Landlord on the order date: (total of previous boxes)		<b>\$3,347.62</b>
Plus daily compensation owing for each day of occupation starting July 27, 2022:		\$95.34 (per day)
<b>Total the Tenant must pay the Landlord if the tenancy is terminated:</b>		<b>\$3,347.62, + \$95.34 per day starting July 27, 2022</b>

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

**1. If the payment is made on or before July 31, 2022:**

<b>Reasons for amount owing</b>	<b>Period</b>	<b>Amount</b>
Arrears:	March 1, 2021 to July 31, 2022	\$35,600.00
Less the amount the Tenant paid to the Landlord:		-\$28,800.00
<b>Total the Tenant must pay to continue the tenancy:</b>	On or before July 31, 2022	<b>\$6,800.00</b>

**2. If the payment is made after July 31, 2022 but on or before August 6, 2022:**

<b>Reasons for amount owing</b>	<b>Period</b>	<b>Amount</b>
Arrears:	March 1, 2021 to August 31, 2022	\$38,500.00
Less the amount the Tenant paid to the Landlord:		-\$28,800.00
<b>Total the Tenant must pay to continue the tenancy:</b>	On or before August 6, 2022	\$9,700.00