



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** Oduyemi v Cruz, 2024 ONLTB 27385

**Date:** 2024-04-18

**File Number:** LTB-L-083427-23

**In the matter of:** 5, 6520 CORFU RD  
MISSISSAUGA ON L5N3B4

**Between:** Adeola Oduyemi

**And**

Kortnee Cruz  
Kurriah Cruz



Landlord

Tenant

Adeola Oduyemi (the 'Landlord') applied for an order to terminate the tenancy and evict Kortnee Cruz and Kurriah Cruz (the 'Tenant') because:

- the Tenant did not pay the rent that the Tenant owes (L1 Application); and
- the Tenant has been persistently late in paying the Tenant's rent (L2 Application).

This application was heard by videoconference on April 8, 2024.

Only the Landlord and the Landlord's Legal Representative Joy Walters attended the hearing.

As of 2:19 PM, 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.

When the capitalized word "Landlord" is used in this order, it refers to all persons or companies identified as a Landlord at the top of the order. When the capitalized word "Tenant" is used in this order, it refers to all persons identified as a Tenant at the top of the order.

### Preliminary Issues:

1. At the hearing, the Landlord submitted that the Tenant Kurriah Cruz vacated the rental unit on April 6, 2024, but that the second Tenant Kortnee Cruz was still in possession of the rental unit. Given that this is a joint tenancy, I find that both Tenants are jointly and severally liable for the full amount of the arrears until possession of the rental unit is returned to the Landlord.
2. The Landlord served the Tenant with a Notice to End your Tenancy at the End of the Term (the 'N8 Notice') for persistent late payment of rent under section 58 of the *Residential Tenancies Act (2006)* (the 'Act'). For the following reasons, I find that the N8 Notice is defective and therefore the L2 Application is dismissed.

3. Pursuant to the Divisional Court's decision in *Ball v. Metro Capital Property*, [2002] O.J. No. 5931 (*'Ball'*), a notice that fails to provide sufficient details is void. At paragraph 10 the Court states in part that there are several purposes for requiring the landlord to provide the reasons and details. The tenant needs to know the specific allegations in order to be in a position to know the case that must be met and to decide whether to dispute the allegations made against the tenant before the Board.
4. The N8 Notice does not identify on which date the rent is due. Additionally, the rent ledger attached to the N8 Notice which gives the Tenant information regarding the specifics of the late payment of rent is confusing. The rent ledger has two columns for rent payment dates and two columns for the rent amounts, has rent amounts in the date columns, is missing months, and is overall unclear on which months were paid late.
5. I find that a reasonable person would not be able to understand the allegations on the N8 Notice and to know the case to be met based on the information provided in the rent ledger. Therefore, the N8 Notice fails to provide sufficient details as required by *Ball* and is void. The L2 application is dismissed. The hearing proceeded on the L1 Application only.

**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 \$2,580.00. It is due on the 15th day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$84.82. This amount is calculated as follows: \$2,580.00 x 12, divided by 365 days.
5. The Tenant has paid \$1,000.00 to the Landlord since the application was filed.
6. The rent arrears owing to April 14, 2024 are \$18,060.00.
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 \$2,550.00 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 \$167.53 is owing to the Tenant for the period from February 15, 2021 to April 8, 2024.
10. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of 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.

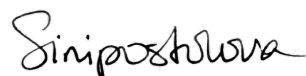
11. The Tenant was not present to advise the Board of their circumstances. The Landlord was not aware of any circumstances to delay or deny eviction. The Landlord had reached out to the Tenant to negotiate a repayment plan but did not receive a response.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
2. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
  - \$20,826.00 if the payment is made on or before April 29, 2024. See Schedule 1 for the calculation of the amount owing.
3. The Tenant may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenant has paid the full amount owing as ordered plus any additional rent that became due after April 29, 2024 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
4. **If the Tenant does not pay the amount required to void this order the Tenant must move out of the rental unit on or before April 29, 2024.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$15,068.97. 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 Tenant. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$84.82 per day for the use of the unit starting April 9, 2024 until the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlord the full amount owing on or before April 29, 2024, the Tenant will start to owe interest. This will be simple interest calculated from April 30, 2024 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before April 29, 2024, then starting April 30, 2024, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
9. 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 April 30, 2024.

**April 18, 2024**  
**Date Issued**

15 Grosvenor Street, Ground Floor  
Toronto ON M7A 2G6



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Kate Sinipostolova  
Member, Landlord and Tenant Board

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 October 31, 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 Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before April 29, 2024**

Rent Owing To May 14, 2024	\$21,640.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$1,000.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$20,826.00</b>

**B. Amount the Tenant must pay if the tenancy is terminated**

Rent Owing To Hearing Date	\$18,600.50
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$1,000.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount of the last month's rent deposit	- \$2,550.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$167.53
<b>Less</b> the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total amount owing to the Landlord</b>	<b>\$15,068.97</b>
Plus daily compensation owing for each day of occupation starting April 9, 2024	\$84.82 (per day)