



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

**File Number:** TSL-18283-20

**In the matter of:** 3206, 390 CHERRY STREET  
TORONTO ON M5A0E2

**Between:** Khadijeh Mariam Jongholi Landlord

**and**

James Sainthill Tenant

Khadijeh Mariam Jongholi (the 'Landlord') applied for an order to terminate the tenancy and evict James Sainthill (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

Khadijeh Mariam Jongholi (the 'Landlord') applied for an order to terminate the tenancy and evict James Sainthill (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard via videoconference on March 31, 2021 at 1:30 p.m.

The Landlord, Kahijeh Mariam Jongholi, represented by Aryan Yassavoli-Sani, a Lawyer, and the Tenant attended the hearing.

**Determinations:**

1. The Tenant asked to adjourn the hearing to a later date due to not having received the Notice of Hearing from the Board. He was advised of the hearing on Tuesday March 30, 2021 pursuant to a conversation with Landlord and Tenant Board after receiving emails from the Tenant's lawyer, and as such was unable to prepare for the hearing.
2. I denied the adjournment request as I find it unlikely that the Tenant did not receive the notice of hearing. The Board's records indicate the Notice of Hearing and the Landlord's application was mailed to the rental unit on March 2, 2021, which is 29 days prior to the hearing. There is no evidence that the package was returned by Canada Post. Pursuant to Residential Tenancies Act, 2006 (Act) section 191(2), a document sent by mail is deemed served on the 5<sup>th</sup> day after mailing. In this case the document is considered served March 8<sup>th</sup>, 2020 allowing the Tenant 21 days to prepare for the hearing

3. The Tenant objected to the fact that the Landlord served him with 18 documents within the 36 hours prior to the hearing and that he did not have adequate time to properly understand the issues against him. The Tenant requested that any documents that were not disclosed within the prescribed timeframe, namely Landlord and Tenant Board Rules of Procedure, Rule 19(1), not be allowed at the hearing.
4. I agree with the Tenant that it would be unfair to allow the Landlord to rely upon the 18 documents that were submitted to the Tenant within the "last 36 hours". I agreed with the Tenant's request not to consider any documents that were not served upon the Tenant, or submitted to the Board. I will however consider the Landlord's "L1/L9 Application – Information Update", the contents of which were confirmed by the Tenant in response to my questions regarding outstanding rent.
5. This order will only address issues relating to rental arrears as per the Landlord's application. If the parties wish the Board to consider other issues, they will have to file the appropriate applications.

### Rent Arrears

6. The Tenant has not paid the total rent the Tenant was required to pay for the period from March 1, 2020 to March 31, 2021. Because of the arrears, the Landlord served a Notice of Termination effective September 23, 2020.
7. The Tenant was in possession of the rental unit when the application was filled.
8. The monthly rent is \$3,600.00
9. The Landlord collected a rent deposit of \$3,600.00 from the Tenant and this deposit is still being held by the Landlord.
10. Interest on the rent deposit is owing to the Tenant for the period from October 25, 2017 to September 23, 2020.
11. As of the hearing date, the Tenant owed the Landlord \$43,386.00 including arrears of rent to March 31, 2021 (\$43,200.00), and the application fee (\$186.00). Since the hearing, another two rental periods have begun, and two more month's rent have become due. Therefore, the amount in this order includes April 2021 and May 2021's rent. If the Tenant has paid the Landlord the April 2021 or May 2021 rent, and /or made any payments to the Landlord since the hearing, the Landlord shall deduct those payments from the amount owing in this order.
12. As per section 207(1) of the Residential Tenancies Act, 2006 (Act), the Board's monetary jurisdiction is \$35,000.00. Therefore, while at the hearing the Landlord requested an order for payment of \$43,386.00, the maximum the LTB can order is \$35,000.00.
13. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The Tenant he has not made

any rent payments for a number of months and the arrears are significant. Further, the Tenant did not present evidence or submissions in support of granting relief from eviction and no circumstances were disclosed at the hearing or appeared in the Board's file.

14. 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.

**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 May 30, 2021.
2. The Tenant shall pay to the Landlord \$35,000.00\*, which represents the amount of rent owing and compensation up to May 19, 2021, less the rent deposit and interest the Landlord owes on the rent deposit.
3. The Tenant shall also pay to the Landlord \$118.36 per day for compensation for the use of the unit starting May 20, 2021 to the date the Tenant moves out of the unit.
4. If the Tenant does not pay the Landlord the full amount owing\* on or before May 30, 2021, the Tenant will start to owe interest. This will be simple interest calculated from May 31, 2021 at 2.00% annually on the balance outstanding.
5. If the unit is not vacated on or before May 30, 2021, then starting May 31, 2021, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
6. 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 May 31, 2021.
7. If, on or before May 30, 2021, the Tenant pays the amount of \$54,186.00\*\* 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.
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 May 31, 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.



Peter Pavlovic  
Member, Landlord and Tenant Board

**May 19, 2021**  
**Date Issued**

Toronto South-RO  
15 Grosvenor Street, 1st 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 November 30, 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**

File Number: TSL-18283-20

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

Reasons for amount owing	Period	Amount
Arrears: (up to the termination date in the Notice of Termination)	March 1, 2020 to September 23, 2020	\$24,322.19
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	September 24, 2020 to May 19, 2021	\$28,169.68
Less the rent deposit:		-\$3,600.00
Less the interest owing on the rent deposit:	October 25, 2017 to September 23, 2020	-\$202.28
Amount owing to the Landlord on the order date: (total of previous boxes)		<b>\$48,689.59</b>
Additional costs the Tenant must pay to the Landlord:		\$186.00
Plus daily compensation owing for each day of occupation starting May 20, 2021:		\$118.36 (per day)
<b>Total the Tenant must pay the Landlord if the tenancy is terminated:</b>		<b>\$48,875.59, + \$118.36 per day starting May 20, 2021</b>

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

Reasons for amount owing	Period	Amount
Arrears:	March 1, 2020 to May 31, 2021	\$54,000.00
Additional costs the Tenant must pay to the Landlord:		\$186.00
<b>Total the Tenant must pay to continue the tenancy:</b>	On or before May 30, 2021	<b>\$54,186.00</b>

2021 CanLII 91934 (ON LTB)