



**Order under Section 69 / 88.2  
Residential Tenancies Act, 2006**

**Citation:** Nganothiam v Panchoo, 2024 ONLTB 9643

**Date:** 2024-05-10

**File Number:** LTB-L-043619-23

**In the matter of:** 5 TESTON ST  
BRAMPTON ON L7A1P3

**Between:** Vivekanandan Nganothiam Landlords  
Karthika Sanker  
Vivekanandan Nganothiam

**And**

Shem Panchoo Tenants  
Rachael Panchoo  
Camille Green

Vivekanandan Nganothiam ('VN1'), Karthika Sanker ('KS'), and Vivekanandan Nganothiam ('VN2') (the 'Landlords') applied for an order to terminate the tenancy and evict Shem Panchoo, Rachael Panchoo and Camille The Landlords also claimed compensation for each day the Tenants remained in the unit after the termination date.

The Landlords also applied for an order requiring the Tenants to pay their reasonable out-of-pocket expenses that are the result of the Tenants failure to pay utility costs they were required to pay under the terms of the tenancy agreement.

These applications were heard by videoconference on January 24, 2024.

Landlords VN1 and KS, the Landlords' Legal Representative, Uzma Khan, and the Tenants attended the hearing.

**Preliminary Issues:**

***Who are the landlords?***

1. The Tenants submit that KS and her husband, VN2, are the individuals who handled all issues in the tenancy. They indicated that they had no interactions with VN1.
2. The tenancy agreement between the parties lists VN1 as the named landlord. KS explained that VN1 is her mother and that her mother is elderly with language difficulties. Given this, she and VN2 assist her mother with the management of the property.
3. The *Residential Tenancies Act, 2006* (the 'Act') defines a "landlord" as follows:
  - (a) the owner of a rental unit or any other person who permits occupancy of a rental unit, other than a tenant who occupies a rental unit in a residential complex and who permits another person to also occupy the unit or any part of the unit,
  - (b) the heirs, assigns, personal representatives and successors in title of a person referred to in clause (a), and
  - (c) a person, other than a tenant occupying a rental unit in a residential complex, who is entitled to possession of the residential complex and who attempts to enforce any of the rights of a landlord under a tenancy agreement or this Act, including the right to collect rent
4. I am satisfied KS and VN2 meet the definition of landlord as they permit occupancy of the rental unit at the direction of the owner. Accordingly, KS and VN2 have been added as named landlords in this matter.

### ***Request to adjourn***

5. The Tenants requested an adjournment to allow them additional time to prepare for the hearing. The request is denied for the following reasons.
6. The Notice of Hearing sent to the parties on September 15, 2023 clearly indicates the matter scheduled to be heard today was the Landlord's L2 application. Furthermore, it is unclear to me how the fact that Tenant Rachael Panchoo ('RP') moved out of the rental unit impacts the Tenants ability to prepare for today's hearing, particularly given RP was in attendance at the hearing.
7. I am satisfied the Tenants had sufficient time to prepare for this hearing. Accordingly, the request to adjourn is denied.

### **Determinations**

8. As explained below, the Landlords have proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. Therefore, tenancy will be terminated due to persistent late pay, with a postponed eviction by one month.

9. The Tenants were in possession of the rental unit on the date the application was filed.

Persistent late payment of the rent

10. On May 11, 2023, the Landlords gave the Tenants an N8 notice of termination for persistently paying their rent late. The termination date on the N8 notice is July 10, 2023.
11. The rent is due on the 10<sup>th</sup> day of each month. It was the evidence of the Landlords that the Tenants paid the rent late every month from August 2022 to April 2023.
12. The Tenants disputed they paid the rent late. The Tenants, however, were unable to provide any specifics with respect to the payment of rent.
13. The Landlords testimony was supported by banking records. In contrast, the Tenants did not provide any documentation supporting their position that rent was paid in full and on time on the months noted on the N8 notice. Given this, I preferred the evidence of the Landlords to that of the Tenants.
14. Based on the evidence before me, I am satisfied that by paying the rent late each month between August 2022 and April 2023, the Tenants were persistently late in paying the rent.
15. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
16. The Tenants were required to pay the Landlords \$31,088.57 in daily compensation for use and occupation of the rental unit for the period from July 11, 2023 to January 24, 2024.
17. Based on the Monthly rent, the daily compensation is \$157.81. This amount is calculated as follows: \$4,800.00 x 12, divided by 365 days.

Relief from eviction:

18. 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 not be unfair to postpone the eviction to June 9, 2024 pursuant to subsection 83(1)(b) of the Act.
19. The Tenants and their family have resided in the rental unit since 2021. Tenant Camille Green has a documented medical condition as noted in medical documentation provided to the Board.
20. In consideration of the length of the tenancy, I believe postponing the eviction by one month will ensure the Tenants are provided appropriate time to find new accommodations.
21. The Landlords collected a rent deposit of \$4,800.00 from the Tenants and this deposit is still being held by the Landlords. Interest on the rent deposit, in the amount of \$222.52 is owing to the Tenants for the period from September 10, 2021 to January 24, 2024.
22. In accordance with subsection 106(10) of the *Residential Tenancies Act, 2006*, (the 'Act') the last month's rent deposit shall be applied to the rent for the last month of the tenancy.

Compensation for unpaid utilities:

- 23. The Landlords have not proven that the Tenants failed to pay water costs that they were required to pay under the terms of the tenancy agreement.
- 24. The Landlords stated in their L2 application that the Tenants owe \$1,463.03 in relation to a Region of Peel Water bill. However, the Landlords did not make submissions to the Board on this issue nor was any testimony provided at the hearing on this issue.

**It is ordered that:**

- 1. The tenancy between the Landlords and the Tenants is terminated. The Tenants must move out of the rental unit on or before June 9, 2024.
- 2. If the unit is not vacated on or before June 9, 2024, then starting June 10, 2024, the Landlords may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
- 3. 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 10, 2024.
- 4. The Tenants shall pay to the Landlord \$31,088.57, which represents compensation for the use of the unit from July 11, 2023 to January 24, 2024. Any payments made by the Tenants to the Landlords for this period shall be deducted from the amount owing.
- 5. The Tenants shall also pay the Landlords compensation of \$157.81 per day for the use of the unit starting January 25, 2024 until the date the Tenants move out of the unit.
- 6. The Tenants shall pay to the Landlords \$186.00 for the cost of filing the application.
- 7. The total amount owing the Tenants owe the Landlords is \$26,252.05.
- 8. If the Tenants do not pay the Landlords the full amount owing on or before June 9, 2024 the Tenants will start to owe interest. This will be simple interest calculated from June 10, 2024 at 7.00% annually on the balance outstanding.

**May 10, 2024**

**Date Issued**

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 Justin Leung  
 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.

In accordance with section 81 of the Act, the part of this order relating to the eviction of the Tenant expires on December 10, 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.

