



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

**Citation:** Mu v Haija, 2024 ONLTB 20494

**Date:** 2024-03-25

**File Number:** LTB-L-059841-23

**In the matter of:** 86 Luzon Ave  
Markham ON L6B0M8

**Between:** Yang Mu Landlord

**And**

Jamal Haija      Tenants Amanda Medizza

Yang Mu (the 'Landlord') applied for an order to terminate the tenancy and evict Jamal Haija and Amanda Medizza (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes. (L1 Application)

Yang Mu (the 'Landlord') applied for an order to terminate the tenancy and evict Jamal Haija and Amanda Medizza (the 'Tenant') because the Tenant has been persistently late in paying the Tenant's rent. (L2 Application)

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on March 12, 2024.

The Landlord's Legal Representative, Zehua Jin, the Landlord, and the Tenant, Jamal Haija, attended the hearing.

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.

**Determinations:**

## L1 Application

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 \$3,250.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$106.85. This amount is calculated as follows: \$3,250.00 x 12, divided by 365 days.
5. The Tenant has paid \$760.00 to the Landlord since the application was filed.
6. The parties agreed that the rent arrears owing to March 31, 2024 are \$30,740.00.
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 \$3,250.00 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 \$47.64 is owing to the Tenant for the period from August 12, 2023 to March 12, 2024.

### Relief from eviction

10. The Tenant, JH, testified that the Tenants have made new living arrangements and expect to leave the rental unit by May 20, 2024. The Tenant requested that the Board exercise its discretion by allowing the Tenants to stay until their new living arrangements are available. The Tenant offered a repayment plan. JH submitted that April's rent will be paid on April 1<sup>st</sup>, 2024, and requested that he only pay until May 20, 2024. In addition, from June 1, 2024 for a period of approximately 4 months he offered to pay \$8000.00 a month to cover the rent arrears.
11. The Landlord submitted that the Tenant has made promises previously and never followed through. The Landlord is seeking termination of tenancy as the arrears are quite substantial and the tenant has not been paying on time.
12. 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. In making my finding, I considered the significant amount of arrears and the fact that the Tenant has not made any payment since September 1, 2023 and that

payment was only \$760.00. Further I find any additional accumulation of rent would prejudice the Landlord given the current amount owing is significant and it is approaching the limit of the LTB's monetary jurisdiction. I find this is not a viable tenancy and relief from eviction is not appropriate in this matter.

#### L2 Application

13. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. Therefore, the tenancy is terminated.

#### N8 Notice of Termination

14. On July 1, 2023, the Landlord gave the Tenant an N8 notice of termination. The notice of termination contains the following allegations: November 4, 2022, the Tenant mentioned his bank account was compromised and asked the Landlord not to deposit the cheque. On November 14, 2022, the Tenant sent an email transfer for a partial rent payment in the amount of \$2250.00 and a second payment of \$1000.00. On January 1, 2023, the Tenant's cheque bounced. On January 21, 2023, the Landlord received the first payment of \$2000.00. The second payment \$1300.00 (Included NSF Fee) was received on Jan 31, 2023. On March 2023, Tenant emailed the first payment of \$1000.00 on March 1<sup>st</sup>, 2023, and the remaining was sent on March 7<sup>th</sup>, 2023. For May 1, 2023, the landlord received the rent in 3 payments on different date and in full on May 6<sup>th</sup>, 2023. For June 2023, the Landlord only received the first payment \$1,000.00 and the remaining was not paid as recorded on June 29, 2023.

#### Persistently Late

15. The Tenant has persistently failed to pay the rent on the date it was due. The rent is due on the 1st day of each month. The rent has been paid late 6 times in the past 8 months from November 2022 to June 2023. Since the N8 notice was served, The Tenant continued to pay their rent late. The Tenant has continued to pay his rent late and has not paid the rent in full from June 2023 up to the date of the hearing. In addition, the Tenant did not dispute the allegations in the N8 notice of termination. Based on the evidence before me I am satisfied that the Tenant has persistently paid their rent late.

#### Relief from eviction

16. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act, and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. Because of the persistent late payment, the tenancy will terminate even if the Tenants pay the full amount currently owing under the L1 application.

**It is ordered that:**

1. Pursuant to the L2 application, the tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before April 5, 2024.
2. The Tenant shall pay to the Landlord \$25,660.56. 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.
3. The Tenant shall also pay the Landlord compensation of \$106.85 per day for the use of the unit starting March 13, 2024 until 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 April 5, 2024, the Tenant will start to owe interest. This will be simple interest calculated from April 6, 2024 at 7.00% annually on the balance outstanding.
5. If the unit is not vacated on or before April 5, 2024, then starting April 6, 2024, 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 April 6, 2024.

**March 25, 2024**

**Date Issued**

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Teresa Hunt

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 expires on October 6, 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 as the tenancy is terminated**

|  |                       |
|--|-----------------------|
| Rent Owing To Hearing Date   | \$29,532.20           |
| 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 | - \$760.00            |
| <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                                | - \$3,250.00          |
| <b>Less</b> the amount of the interest on the last month's rent deposit                | - \$47.64             |
| <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>\$25,660.56</b>    |
| Plus daily compensation owing for each day of occupation starting March 13, 2024       | \$106.85<br>(per day) |

2024 ONL TB 20494 (CanLII)