



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

**Citation:** MetCap Living Management Inc. v Amyan, 2024 ONLTB 38727

**Date:** 2024-05-29

**File Number:** LTB-L-059675-23

**In the matter of:** 601, 40 STEVENSON RD  
ETOBICOKE ON M9V2B2

**Between:** MetCap Living Management Inc. Landlord

**And**

Vanessa Amyan Tenant

MetCap Living Management Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Vanessa Amyan (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on April 24, 2024.

The Landlord's Legal Representative Phylicia Thomas, the Tenant, and the Tenant's witness Justina Opoku-Ware attended the hearing.

### **Determinations:**

#### Preliminary Issue: Previous Interim Order Not Followed:

1. The matter was previously adjourned on October 25, 2023, due to scheduling overflow. An interim order was issued on November 1, 2023 that set out disclosure deadlines for the parties as well as ordering the Tenant to pay the ongoing rent to the Landlord by the day it is due until the matter is resolved or the Board orders otherwise.
2. The Landlord's Legal Representative submitted, and the Tenant did not dispute, that the order was not followed. The order states that if the Tenant does not comply with the requirement to pay ongoing rent, the Member may refuse to accept or consider the Tenant's evidence and submissions at the next hearing.
3. Notwithstanding the Tenant's breach, I found it appropriate to use my discretion and allow the Tenant to make her submissions and present evidence to explain the circumstances that have led to the amount of arrears.

Application for Termination of the Tenancy and Collection of Arrears:

4. 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.
5. As of the hearing date, the Tenant was still in possession of the rental unit.
6. The lawful rent is \$2,100.22. It is due on the 1st day of each month.
7. Based on the Monthly rent, the daily rent/compensation is \$69.05. This amount is calculated as follows:  $\$2,100.22 \times 12$ , divided by 365 days.
8. The Tenant has paid \$8,450.00 to the Landlord since the application was filed.
9. The Landlord's Legal Representative submitted the application fails to include arrears of rent for the month of July 2023. She requested the application total for arrears be amended.
10. Having reviewed the calculations on the N4 notice, the application, and the Landlord's ledger, I find that the arrears claimed in the N4 notice and application are correct and that no amendment is required. The Landlord's ledger takes into account \$597.00 of alleged arrears that were prior to the N4 notice and not claimed in this L1 application, and also does not credit the Tenant for her February 2023 payment of \$1,452.00.
11. The rent arrears owing to April 30, 2024 are therefore \$13,939.10.
12. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
13. The Landlord collected a rent deposit of \$2,049.00 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.
14. Interest on the rent deposit, in the amount of \$71.72 is owing to the Tenant for the period from December 1, 2022 to April 24, 2024.

Relief from Eviction:

15. Having considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), I find that it would not be unfair to grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.
16. The Landlord is seeking the termination of the tenancy and collection of arrears.
17. The Tenant stated she wishes to preserve the tenancy and repay the arrears through a payment plan.
18. The Tenant stated she is a mother of three children aged eleven, eight and six years old, and 5 months old. She has no credit that will be able to assist her in finding another rental

unit, let alone a landlord who will rent to a mother with three small children. The Tenant further stated that she has no where else to go and if evicted will have to turn to a shelter or split up her children into different homes.

19. The Tenant stated she is currently on maternity leave and will return to her job as an accident benefit clerk for a law firm in September 2024. She is currently receiving employment insurance, child tax benefits, and informal child support from the children's father. Her major expenses are groceries and supplies for her children. She however does not own a car and uses a pay-as-you-go mobile plan.
20. The Tenant submitted she is currently working with several organizations and programs including Eviction Prevention in the Community ('EPIC'), Albion Neighbourhood Services ('Albion'), and the Toronto Rent Bank to provide her with financial aid as well as assistance in managing her finances.
21. The Tenant's Witness, Justina Opoku-Ware testified that she is a Caseworker for EPIC and has been working with the Tenant since January 2024. She stated EPIC works with individuals who demonstrate commitment to paying their rent, and the Tenant has shown that commitment through her payment of March and April's rent (though April's rent was late). She testified that the Tenant has applied for a trusteeship with Albion which will see a Trustee manage the Tenant's income and make direct rent payments to the Landlord.
22. The Witness further stated that, upon the Board's order for a payment plan, EPIC is prepared to give up to \$4,000.00 towards the Tenant's arrears. The Rent Bank program is ready to give \$5,000.00 towards the arrears as well, for a total of \$9,000.00. However, EPIC will require 30 days once any Board order for a payment plan is made to issue and provide both cheques to the Landlord.
23. The Tenant submitted she can pay between \$400.00-\$600.00 per month towards the arrears.
24. When asked if the Landlord's Legal Representative had any objection to a payment plan, she stated she would leave it to the Board's discretion.
25. The Tenant has shown commitment to getting her finances in order so as to find a sustainable financial plan to pay back the rent arrears. She has made attempts to pay rent since the application was filed and faces the shelter system or splitting up her children in the event of eviction. Given her personal circumstances, budget, employment, and assistance from several organizations and programs, I find that a payment plan is appropriate in this situation.

**It is ordered that:**

1. The Tenant shall pay to the Landlord **\$14,125.10** for arrears of rent up to April 30, 2024 and costs.
2. The Tenant shall pay to the Landlord the amount set out in paragraph 1 of this order by paying \$500.00 on or before the 20<sup>th</sup> day of each month from June 20, 2024 to October 20, 2026, and \$125.10 on or before November 20, 2026.

3. The financial assistance provided by organizations such as EPIC and Toronto Rent Bank shall be paid directly to the Landlord and shall be deducted from the total rent arrears owed by the Tenant.
4. The Tenant shall also pay to the Landlord new rent in full on or before the first day of each month for the period commencing June 1, 2024 to November 1, 2026 or until the arrears are all paid, whichever comes first.
5. The Tenant shall also pay to the Landlord the lawful rent for May 1, 2024 on or by June 20, 2024.
6. If the Tenant fails to make any one of the payments in accordance with this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenant to the Landlord pursuant to paragraph 1 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenant, apply to the LTB within 30 days of the Tenant's breach pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenant and requiring that the Tenant pay any new arrears, NSF fees and related charges that became owing after April 30, 2024.

**May 29, 2024**  
**Date Issued**

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Fotoula Hatzantonis  
Member, Landlord and Tenant Board

15 Grosvenor St, 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.