



**Order under Section 69 / 87
Residential Tenancies Act, 2006**

Citation: Yang v Lourenco, 2024 ONLTB 569

Date: 2024-01-08

File Number: LTB-L-023391-22

In the matter of: 103 YORKMINSTER RD
NORTH YORK ON M2P1M5

Between: De yuan Yang Landlord

And

Evan Lourenco Tenant

Deyuan Yang (the 'Landlord') applied for an order to terminate the tenancy and evict Evan Lourenco (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application came before me by videoconference on September 7, 2023 and November 20, 2023.

The Landlord, the Landlord's witness, Yang Yang ('YY'), the Landlord's legal representative, Jian Hong Guan ('JG'), and the Tenant's agent, Andrew Poulos ('AP'), attended both hearings. The Tenant also attended the hearing on September 7, 2023.

On September 25, 2023, interim order LTB-L-023391-22-IN was issued, determining that the N4 notice of termination that the application is based on is invalid, and requiring the Tenant to pay the rent as it came due pending the next hearing date.

The remainder of the hearing was concluded on November 20, 2023.

Preliminary Issue:

1. The parties agreed that Evan Lourenco is the sole tenant of the rental unit. Michael Lourenco and Donna Lourenco are not tenants and are therefore removed as parties to this application.

Determinations:

2. The Landlord decided to proceed with the hearing for an order for payment of rent arrears only.
3. As of the hearing date, the Tenant was still in possession of the rental unit.
4. The lawful rent is \$7,800.00. It is due on the 1st day of each month.
5. The Landlord waived the rent arrears for the month of April 2022 as compensation for an N12 notice that the Landlord gave the Tenant. The application states that no rent was paid for the month of December 2021, but in fact the Tenant paid \$3,900.00 for that month, and the other half of the rent for December 2021 was waived by the Landlord. The Tenant has not made any other payments since the application was filed.
6. The rent arrears owing to November 30, 2023 are \$171,600.00. JG acknowledged that the LTB's monetary jurisdiction is \$35,000.00, and that once this order is issued, the Landlord's claim to any amount above \$35,000.00 for rent arrears owing to November 30, 2023 is extinguished pursuant to subsection 207(3) of the *Residential Tenancies Act, 2006*. JG confirmed the Landlord wishes to proceed.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

Section 82 Issues

8. At a hearing of an application under section 69 of the Act for an order terminating a tenancy and evicting a tenant based on a notice of termination under section 59 of the Act, the LTB shall permit the tenant to raise any issue that could be the subject of an application made by the tenant under the Act, if the tenant complies with the requirements of section 82 of the Act: s. 82, *Residential Tenancies Act, 2006*; rules 19.4-19.7, *LTB Rules of Procedure*. Section 82 of the Act also applies, with necessary modifications to an application for payment of rent arrears under section 87 of the Act: ss. 87(2), *Residential Tenancies Act, 2006*.
9. In this case the Tenant intended to raise issues under section 82 of the Act, and complied with the requirements of section 82 of the Act and rule 19.4 of the *LTB Rules of Procedure*.
10. Interim order LTB-L-023391-22-IN issued on September 25, 2023 contained the following provision: "The Tenants shall pay the full monthly rent to the Landlord on or before the first day of each month, beginning October 1, 2023 until the next hearing date. If the Tenants fail to comply, the LTB may refuse to accept or consider the Tenants' evidence and submissions".
11. JG said that the Tenant did not pay the rent for October 2023 or November 2023, despite the interim order. AP confirmed this is correct.

12. AP said the rent was not paid because the Landlord did not contact the Tenant to tell him how to pay rent, and also because the Tenant did not believe he should have to. AP confirmed that the Tenant has the Landlord's email address and phone number, and did not reach out to the Landlord to ask how to pay the rent.
13. JG referred to an email he said was sent to the Tenant by the Landlord's agent on October 1, 2023 about collecting rent. It said the Landlord would accept "cheques/Emt", and to advise if he wished to pay by a different method. JG said there was no response to this email.
14. JG asked that I refuse to accept or consider the Tenant's evidence and submissions.
15. AP submitted that I should still hear the Tenant's section 82 issues because the October 1, 2023 email JG referred to was not properly in evidence (it was only uploaded to the Tribunals Ontario Portal on the hearing date), and because the Tenant followed the required steps under the Act to raise the issues.
16. The Tenant breached the interim order issued on September 25, 2023. Regardless of whether the October 1, 2023 email was received by the Tenant, the excuses given by AP are inadequate to justify the Tenant's failure to even attempt to pay the rent as ordered. Not only did the Tenant not try to pay the rent, or at least contact the Landlord for information about how to pay, AP said another reason the Tenant did not pay was that he did not think he should have to.
17. I find it troubling that a reason the Tenant did not comply with the interim order was that he did not think he should have to. LTB orders are not mere suggestions, Orders must be complied with, and there ought to be consequences to breaching LTB orders.
18. An LTB may include in an order whatever conditions it considers fair in the circumstances: ss 204(1), *Residential Tenancies Act, 2006*. The condition in the interim order that the rent be paid pending the next hearing date, failing which the LTB may refuse to accept or consider the Tenant's evidence and submissions, was fair in the circumstances. The Landlord's claim already exceeded the LTB's monetary jurisdiction by a substantial amount. Although the Tenant also claimed a substantial amount under section 82 of the Act, it was fair to make an order to ensure the rent arrears did not grow.
19. The *Statutory Powers Procedure Act* applies with respect to all proceedings before the LTB: ss 184(1), *Residential Tenancies Act, 2006*. The LTB may make interim orders and may impose conditions on interim orders: ss. 16.1(1), 16.1(2), *Statutory Powers Procedure Act*; *LTB Rules of Procedure*, rules. 1.4, 1.6(r).
20. The interim order imposed a condition. In particular, the Tenant must pay the rent as it comes due, or else the LTB may refuse to accept or consider the Tenant's evidence and submissions. The Tenant breached the interim order without any reasonable explanation, and I therefore refused to accept the Tenant's evidence or submissions relative to the issues he intended to raise under section 82 of the Act.

It is ordered that:

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1. The Tenant shall pay to the Landlord \$35,186.00. This amount includes rent arrears owing up to November 30, 2023, and the cost (\$186.00) of filing the application.
2. If the Tenant does not pay the Landlord the full amount owing on or before January 19, 2024, the Tenant will start to owe interest. This will be simple interest calculated from January 20, 2024 at 7.00% annually on the balance outstanding.

January 8, 2024

Date Issued

Mark Melchers

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.

2024 ONLTB 569 (CanLI)

**Schedule 1
SUMMARY OF CALCULATIONS**

A. Amount the Tenant must pay

Rent Owing To November 30, 2023	\$179,400.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$7,800.00
Total amount owing to the Landlord	\$171,600.00
LTB Monetary Jurisdiction (exclusive of costs and interest)	\$35,000.00
Total the Tenant must pay including costs	\$35,186.00