



**Order under Section 78(11)  
Residential Tenancies Act, 2006**

**Citation:** Michael v Diaz, 2024 ONLTB 31843

**Date:** 2024-05-03 **File Number:**  
LTB-L-009520-24-SA

**In the matter of:** 841 ROLLINGACRES PL  
London ON N5X0L4

**Between:** Vincent Michael Landlord  
Solly Abraham

**And**

Guiesella Diaz Tenant  
Sharel Gagne

Vincent Michael and Solly Abraham (the 'Landlord') applied for an order to terminate the tenancy and evict Guiesella Diaz and Sharel Gagne (the 'Tenant') and for an order to have the Tenant pay the rent they owe because the Tenant did not meet a condition specified in the order issued by the LTB on December 20, 2023 mediated settlement signed by the parties on December 20, 2023 with respect to application LTB-L-056347-23.

The Landlord's application was resolved by order LTB-L-009520-24 issued on February 27, 2024. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-009520-24.

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

The Landlord (Vincent Michael only), his Representative, Anthony Corso and the Tenant (Guiesella Diaz for both) attended the hearing.

The Tenant spoke with duty counsel.

**The Parties Agreed that:**

1. The Landlord consents to the Tenant's motion to set aside order LTB-L-009520-24, issued on February 27, 2024.
- 2.
3. Order LTB-L-009520-24, issued on February 27, 2024 shall be cancelled and cannot be enforced.
4. Order LTB-L-056347-23 issued on December 20, 2024 shall be cancelled.
5. The tenancy shall end of May 31, 2024, on a non-voidable basis.

**File Number:** LTB-L-009520-24-SA

6. The Landlord can enforce eviction through the sheriff as of June 1, 2024, and collect daily compensation of \$98.63 for each day the tenant overstays ( $\$3,000.00 \times 12 / 365 = \$98.63$ ).
7. The arrears owing to April 30, 2024 are \$18,586.00 with costs.
8. The Tenant shall pay the arrears on or before May 31, 2024, or they will attract interest at judgment rate.

**It is ordered that:**

1. The Landlord consents to the Tenant's motion to set aside LTB-L-009520-24, issued on February 27, 2024.
2. Order LTB-L-009520-24, issued on February 27, 2024 is cancelled and cannot be enforced and is replaced with this order.
3. Order LTB-L-056347-23 issued on December 20, 2024 is cancelled.
4. The tenancy shall end of May 31, 2024, on a non-voidable basis.
5. The Tenant shall move out of the unit on or before May 31, 2024.
6. If the unit is not vacated on or before May 31, 2024, then starting July 1, 2024, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
7. 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 1, 2024.

8. The Tenant shall pay to the Landlord daily compensation of \$98.63 for each day the tenant overstays after May 31, 2024 in the amount of \$98.63/day ( $\$3,000.00 \times 12 / 365 = \$98.63$ ).
9. The arrears owing to April 30, 2024 are \$18,586.00 with costs.
10. The Tenant shall pay off the arrears on or before May 31, 2024.
  
11. If the Tenant does not pay the Landlord the full amount owing by May 31, 2024, the Tenant will owe interest. This will be simple interest calculated from June 1, 2024 at 7.00% annually on the balance outstanding.

**May 3, 2024**

**Date Issued**

James Campbell  
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor  
Toronto ON M7A 2G6

**File Number:** LTB-L-009520-24-SA

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 1, 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.

