



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

**Citation:** Ari & Jet Investments Inc v Boudreau, 2024 ONLTB 17202

**Date:** 2024-03-06

**File Number:** LTB-L-082136-23

**In the matter of:** 2, 131 BELL AVE HAMILTON  
ON L8K3E5

**Between:** Ari & Jet Investments Inc Landlord

**And**

Chantal Boudreau Tenants  
Taurai Sibotshiwe

Ari & Jet Investments Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Chantal Boudreau and Taurai Sibotshiwe (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on February 27, 2024.

The Landlord J. Gill, the Landlord's Legal Representative LL Barder and the Tenant Taurai Sibotshiwe attended the hearing.

**Determinations:**

1. The Tenant Taurai Sibotshiwe stated that Chantal Boudreau was not present because she had moved out in February 2023. The Landlord's Legal Representative disputed this, submitting that the Landlord has not received proper notice of termination of her tenancy and reported that Ms. Boudreau has been observed at the residence by contractors when doing work since February 2023.
2. There was no evidence that Ms. Boudreau had legally terminated her tenancy and was no dispute she is still named on the lease agreement. I am also not satisfied based on the evidence before me that she is no longer in possession of the rental unit. I therefore determined that the application would not be amended to remove Chantal Boudreau as a respondent and the hearing would proceed with only the Landlord and Tenant T. Sibotshiwe's evidence.

3. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Nonpayment of Rent (N4 Notice). The Tenants 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.
4. As of the hearing date, the Tenants were still in possession of the rental unit.
5. The lawful rent is \$3,575.00. It is due on the 1st day of each month.
6. Based on the Monthly rent, the daily rent/compensation is \$117.53. This amount is calculated as follows: \$3,575.00 x 12, divided by 365 days.
7. The Tenants have not made any payments since the application was filed.
8. The rent arrears owing to February 29, 2024 are \$40,445.00.
9. The amount of rent arrears owing by the Tenant exceeds the monetary jurisdiction of the Board. Section 207(1) of the *Residential Tenancies Act, 2006* ("Act") limits the monetary jurisdiction of the Board to that of the Small Claims Court. At this time that amount is \$35,000.00, and proceeding with an application with the Board extinguishes any rights the Landlord may have to pursue the full amount owing at the Superior Court. The Landlord was made aware of the Board's monetary jurisdiction and chose to proceed with this application.
10. While the Board cannot order a person to pay more than \$35,000.00 in accordance with s. 207(1) of the Act, this does not apply to the "stay and pay" option set out in paragraph 2 the order below. In *Galaxy Real Estate Core Ontario LP v. Kirpichova et al.*, 2023 ONSC 4356, the Divisional Court confirmed that the Board's monetary jurisdiction does not apply to the amount the Tenant must pay if they choose to void the order and continue the tenancy in accordance with section 74(4) of the Act. Therefore, the Tenant must pay the full arrears owing, plus the Landlord's costs, if they want to void the order and continue this tenancy.
11. If the Tenant chooses not to void this order by paying the full amount owing then the Tenant must vacate the rental unit and pay the amount of arrears owing up to the Board's monetary jurisdictional limit of \$35,000.00, plus the cost of filing the application.
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 \$2,990.00 from the Tenants 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 \$90.11 is owing to the Tenants for the period from December 15, 2022 to February 27, 2024.

*Relief from Eviction*

15. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants void this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
  - \$44,206.00 if the payment is made on or before March 17, 2024. See Schedule 1 for the calculation of the amount owing.
3. The Tenants may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenants have paid the full amount owing as ordered plus any additional rent that became due after March 17, 2024 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.
4. **If the Tenants do not pay the amount required to void this order the Tenants must move out of the rental unit on or before March 17, 2024**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$35,186.00. 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 Tenants. See Schedule 1 for the calculation of the amount owing.
6. The Tenants shall also pay the Landlord compensation of \$117.53 per day for the use of the unit starting February 28, 2024 until the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before March 17, 2024, the Tenants will start to owe interest. This will be simple interest calculated from March 18, 2024 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before March 17, 2024, then starting March 18, 2024, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
9. 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 March 18, 2024.

**March 6, 2024**

**Date Issued**

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Mitch Panciuk

Member, Landlord and Tenants 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 September 18, 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 Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before March 17, 2024**

Rent Owing To March 31, 2024	\$44,020.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$0.00
<b>Less</b> the amount the Tenants paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenants for an{abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenants is entitled to	- \$0.00
<b>Total the Tenants must pay to continue the tenancy</b>	<b>\$44,206.00</b>

**B. Amount the Tenants must pay if the tenancy is terminated**

Rent Owing To Hearing Date	\$40,043.31
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$0.00
<b>Less</b> the amount the Tenants paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount of the last month's rent deposit	- \$2,990.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$90.11
<b>Less</b> the amount the Landlord owes the Tenants for an {abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenants is entitled to	- \$0.00

2024 ONLTB 17202 (CanLII)

<b>Total amount owing to the Landlord (Board's maximum monetary jurisdiction)</b>	<b>\$35,186.00</b>
Plus daily compensation owing for each day of occupation starting February 28, 2024	\$117.53 (per day)