



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

**Citation:** 1000204978 Ontario Limited v Bah, 2024 ONLTB 14323

**Date:** 2024-02-28

**File Number:** LTB-L-083196-23

**In the matter of:** #1, 2910 KEELE ST NORTH  
YORK ON M3M2H1

**Between:** 1000204978 Ontario Limited Landlord

### **And**

Hadja Maimouna Bah Tenant

1000204978 Ontario Limited (the 'Landlord') applied for an order to terminate the tenancy and evict Hadja Maimouna Bah (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes (L1 Application).

The Landlord also applied for an order to terminate the tenancy and evict the Tenant because the Tenant has been persistently late in paying the Tenant's rent (L2 Application).

This application was heard by videoconference on January 8, 2024.

The Landlord's agent, Lingyan Lu ('LL'), the Landlord's legal representative, Pui Sze (Cynthia) Cheung ('PC'), the Tenant, and the Tenant's legal representative, Ali Golabgir ('AG'), attended the hearing.

### **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 \$1,281.25. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$42.12. This amount is calculated as follows: \$1,281.25 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to January 31, 2024 are \$22,531.25.
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 \$1,250.00 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 \$53.17 is owing to the Tenant for the period from April 28, 2022 to January 8, 2024.

### *L2 Application*

10. On September 23, 2023, the Landlord gave the Tenant an N8 notice of termination deemed served on September 28, 2023. The notice of termination alleges that the Tenant did not make any rent payments from August 2022 to September 2023.
11. I find the allegations in the N8 notice to be factually correct. The Tenant continued failed to pay any rent after the N8 notice was given up to the hearing date.
12. This amounts to non-payment of rent, as alleged in the L1 application, but I also find that the Tenant has persistently failed to pay the rent on the date it was due for the purposes of section 58(1)1 of the Act. The rent is due on the first day of each month. The Tenant has failed to pay rent on time or at all in every month from August 2022 to the date of the hearing.

### *Relief from Eviction*

13. The Landlord's evidence was that at the time the N4 notice and N8 notice were served on the Tenant on September 22, 2023, a letter was also provided from PC's office to the Tenant suggesting that a payment plan for the rent arrears be arranged, but there was no response. Another letter suggesting arrangement of a payment plan was given to the Tenant on or about December 20, 2023, but there was again no response.
14. LL said that they purchased the residential complex in June 2022, and the Tenant has not paid rent since August 2022. This has caused significant financial problems, because the Landlord still has to pay the mortgage and for utilities. LL presented as evidence a letter from the Landlord's bank advising of a mortgage default (DOC-2508875). She said that the bank has also threatened to implement a power of sale. LL also presented evidence of missed payments for property taxes.

15. On cross-examination, LL could not recall how much the monthly mortgage and utility payments are, and said she would need to talk to her accountant.
16. LL said this residential complex contains 8 rental units, and she does not own any other rental units. She said some tenants pay their rent and some don't. She said the revenue from those who pay is not enough to cover the mortgage.
17. The Tenant said that they were arrested after an altercation with LL, and that they were told not to contact LL by police and later by a Judge. The Tenant said they tried to alert LL to a pest issue by uploading a document to the Tribunals Ontario Portal, and that police contacted them about this due to the no contact order. The Tenant said they did not contact PC about the letters provided because police had warned that PC was looking for trouble.
18. The Tenant said that they are able to resume payment of the rent, and can pay an additional \$500.00 per month toward the rent arrears. The Tenant said that they did not pay rent since 2022 because they did not want a criminal record, and had to pay a lawyer regarding these other issues.
19. The Tenant said if the tenancy is terminated, they would need 3-4 months to find new living accommodation.
20. PC submitted that the tenancy ought to be terminated. The Tenant has not paid any rent since August 2022, and the arrears are substantial. While the Tenant is suggesting a payment plan today, her letters to the Tenant in September and December 2023 were ignored.
21. PC also noted that even if there was a no contact order in place regarding LL, the Tenant could have still contacted PC. PC said this is all just a delay tactic.
22. AG challenged that the Landlord is experiencing financial hardship because she did not know the numbers.
23. He also submitted the Tenant has been concerned about contacting LL because of the no contact order, but the Tenant has a good faith intention to comply with a payment plan.
24. Despite the Landlord not knowing the exact amounts of the monthly payments due for the mortgage or utilities, I do accept that the Landlord is experiencing financial difficulty. LL presented documentary evidence to support this assertion, including a letter from the Landlord's bank.
25. I do not find the Tenant's excuse for not paying any rent for 18 straight months (August 2022 to January 2024) to be compelling. That the Tenant had to pay a lawyer regarding another matter does not explain why no rent at all was paid during this period. Similarly, the no-contact order does not justify the Tenant not paying rent. If the Tenant had a desire to pay the rent without contacting LL, arrangements could have been made through PC, or the Tenant could have requested to pay rent to the LTB in trust.

26. I do not find the Tenant's payment plan to be reasonable. Even if the Tenant were to pay the full rent plus \$500.00 per month toward the rent arrears, it would take approximately 45 months to repay the arrears. The length of this payment plan is excessive in the circumstances.
27. 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 not be unfair to postpone the eviction until March 31, 2024 pursuant to subsection 83(1)(b) of the Act. The purpose of the delay is to provide the Tenant with a reasonable amount of time to find new living accommodation, or to seek assistance and secure the funds to void this order. If this order is voided, then the Tenant will be required to pay the lawful rent on time for a period of 12 months, pursuant to the L2 application.

**It is ordered that:**

*L1 Application:*

1. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
2. **The Tenant may void the L1 portion of this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
  - \$23,998.50 if the payment is made on or before February 29, 2024. See Schedule 1 for the calculation of the amount owing.
- OR**
- \$25,279.75 if the payment is made on or before March 31, 2024. See Schedule 1 for the calculation of the amount owing.
3. The Tenant may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenant has paid the full amount owing as ordered plus any additional rent that became due after March 31, 2024 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
4. **If the Tenant does not pay the amount required to void this order the Tenant must move out of the rental unit on or before March 31, 2024**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$20,469.79. 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.
6. The Tenant shall also pay the Landlord compensation of \$42.12 per day for the use of the unit starting January 9, 2024 until the date the Tenant moves out of the unit.

7. If the Tenant does not pay the Landlord the full amount owing on or before March 10, 2024, the Tenant will start to owe interest. This will be simple interest calculated from March 11, 2024 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before March 31, 2024, then starting April 1, 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 April 1, 2024.

*L2 Application*

10. If the L1 portion of this order is voided in accordance with paragraph 2 or 3 of this order, then the Tenant shall pay the full lawful monthly rent on or before the first day of each month for a period of 12 months beginning April 1, 2024.
11. If the Tenant fails to comply with the conditions set out in paragraph 10 of this order, the Landlord may apply under section 78 of the Residential Tenancies Act, 2006 (the 'Act') for an order terminating the tenancy and evicting the Tenant. The Landlord must make the application within 30 days of a breach of a condition. This application is made to the LTB without notice to the Tenant.

**February 28, 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.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on October 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.

**Schedule 1  
SUMMARY OF CALCULATIONS**

**A. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before February 29, 2024**

|  |                    |
|--|--------------------|
| Rent Owing To February 29, 2024  | \$23,812.50        |
| 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 | - \$0.00           |
| <b>Less</b> the amount the Tenant paid into the LTB since the application was filed    | - \$0.00           |
| <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 the Tenant must pay to continue the tenancy</b>                               | <b>\$23,998.50</b> |

**B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before March 31, 2024**

|  |                    |
|--|--------------------|
| Rent Owing To March 31, 2024   | \$25,093.75        |
| 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 | - \$0.00           |
| <b>Less</b> the amount the Tenant paid into the LTB since the application was filed    | - \$0.00           |
| <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 the Tenant must pay to continue the tenancy</b>                               | <b>\$25,279.75</b> |

**C. Amount the Tenant must pay if the tenancy is terminated**

|  |             |
|--|-------------|
| Rent Owing To Hearing Date   | \$21,586.96 |
| 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 | - \$0.00    |

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|   |                      |
|---|----------------------|
| <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                             | - \$1,250.00         |
| <b>Less</b> the amount of the interest on the last month's rent deposit             | - \$53.17            |
| <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>\$20,469.79</b>   |
| Plus daily compensation owing for each day of occupation starting January 9, 2024   | \$42.12<br>(per day) |