



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** BOND & MARY DEVELOPMENT PHASE 11 INC. v Caceres, 2024 ONLTB 401

**Date:** 2024-01-25

**File Number:** LTB-L-056348-23

**In the matter of:** 1403, 80 BOND ST E  
OSHAWA ON L1G0E6

**Between:** BOND & MARY DEVELOPMENT PHASE 11 INC. Landlord

**And**

Diego Caceres Tenant

BOND & MARY DEVELOPMENT PHASE 11 INC. (the 'Landlord') applied for an order to terminate the tenancy and evict Diego Caceres (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on December 7, 2023.

The Landlord, Landlord's Legal Representative Evgeny Aptekar, the Tenant and Tenant's assistant, Nav Bhatia, attended the hearing.

### Determinations:

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 \$2,720.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$89.42. This amount is calculated as follows: \$2,720.00 x 12, divided by 365 days.
5. The Tenant has paid \$8,160.00 to the Landlord since the application was filed.
6. The rent arrears owing to December 31, 2023 are \$10,380.00.
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 \$2,720.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit is applied to the arrears of rent because the tenancy terminated.

9. Interest on the rent deposit, in the amount of \$54.96 is owing to the Tenant for the period from February 16, 2023 to December 7, 2023.
10. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenant and find that it would not be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act by postponing eviction to February 24, 2024.
11. The Tenant submitted that they had attempted to discuss a repayment plan with the Landlord but didn't receive a response. This was challenged by the Landlord, who testified that they had engaged in several discussions with the Tenant and provided a draft payment agreement which wasn't executed. Here, I prefer the evidence of the Landlord as they have been able to provide documentary material in support of their position to the Board.
12. I accept that the Tenant may have a medical condition which has affected their ability to pay the rent. However, the Tenant did not provide submissions as to how, moving forward, they will be able to pay back the arrears and pay the rent on time. As such, I find the tenancy is no longer viable. The Tenant had requested a postponed eviction by two months, which the Landlord objected to.
13. I find a postponed eviction by approximately one month to February 24, 2024 may be appropriate to provide the Tenant additional time to possibly secure new accommodations and to limit possible increase in rent arrears.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
2. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
  - \$13,286.00 if the payment is made on or before January 31, 2024. See Schedule 1 for the calculation of the amount owing.
  - **OR**
  - \$16,006.00 if the payment is made on or before February 24, 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 February 24, 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 February 24, 2024**

5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$5,696.98. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$89.42 per day for the use of the unit starting December 8, 2023 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 February 5, 2024, the Tenant will start to owe interest. This will be simple interest calculated from February 6, 2024 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before February 24, 2024, then starting February 25, 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 February 25, 2024.

**January 25, 2024**

**Date Issued**

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Justin Leung

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 August 25, 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 January 31, 2024**

Rent Owing To January 31, 2024	\$21,260.00
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	- \$8,160.00
<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>\$13,286.00</b>

**B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before February 24, 2024**

Rent Owing To February 29, 2024	\$23,980.00
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	- \$8,160.00
<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>\$16,006.00</b>

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

Rent Owing To Hearing Date	\$16,445.94
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	- \$8,160.00
<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	- \$2,720.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$54.96

<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>\$5,696.98</b>
Plus daily compensation owing for each day of occupation starting December 8, 2023	\$89.42 (per day)