



**Order under Section 21.2 of the
Statutory Powers Procedure Act
And the Residential Tenancies Act, 2006**

Citation: 2491364 ONTARIO INC v Pushpanathan, 2023 ONLTB 78646

Date: 2023-12-06 **File Number:**
LTB-L-059785-22-RV

In the matter of: 105, 1442 LAWRENCE AVE W TORONTO
ON M6L1B5

Between: 2491364 ONTARIO INC Landlord

And

Jegatheeswary Pushpanathan Tenant

Review Order

2491364 ONTARIO INC (the 'Landlord') applied for an order to terminate the tenancy and evict Jegatheeswary Pushpanathan (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-059785-22 issued on August 2, 2023.

On August 28, 2023, the Tenant requested a review of the order. On August 30, 2023 interim order LTB-L-059785-22 -RV-IN was issued, staying the order issued on August 2, 2023.

This review request was heard by videoconference on September 28, 2023 at 10:30am.

Only the Landlord's representatives G. Paine and M. Block attended the hearing.

Determinations:

1. The Landlord requested a review of order LTB-L-059785-22 issued August 2, 2023 alleging, a serious error occurred as the Landlord's application was dismissed on the basis the amount claimed in the application was considerably different and the member was confused as to the Landlord's calculations on the ledger/update form.

2. The Landlord's application was filed in October 2022, which was approximately 4 months prior to the AGI order being issued. Consequently, the L1 Application did not incorporate the above guideline rent increases for May 15, 2018 through to May 14, 2020, granted as part of the AGI order. By dismissing the Landlord's application as a result of the application figures being different than the amount being claimed at the hearing, I find the member seriously erred in law by failing to consider the terms of the AGI order which allowed the Landlord to increase the rent charged by the ordered increase within the time period specified therein. The Landlord's review request is thus granted and the original application was heard on its merits.

L1/N4 Application

3. 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.
4. As of the hearing date, the Tenant was still in possession of the rental unit.
5. The lawful rent is \$1,054.43. It is due on the 1st day of each month.
6. Based on the Monthly rent, the daily rent/compensation is \$34.67. This amount is calculated as follows: $\$1,054.43 \times 12$, divided by 365 days.
7. The Tenant has paid \$12,977.00 to the Landlord since the application was filed.
8. The rent arrears owing to September 30, 2023 are \$1,650.43. The rent arrears calculation takes into account the February 1, 2019 rent increase of 4.8%, which encompasses the annual guideline of 1.8% in effect during the 2019 calendar year, as well as the 3% ordered rent increase above the guideline amount, which was approved by AGI order issued on February 22, 2023 for file # LTB-L-077056-22 (TNL-02287-18). I am satisfied the Landlord has provided the Tenant with proper notice of rent increase within the time period specified therein.
9. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
10. The Landlord collected a rent deposit of \$1,010.02 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.
11. Interest on the rent deposit, in the amount of \$41.85 is owing to the Tenant for the period from February 1, 2022 to September 28, 2023.

Section 83

12. Section 83 requires that I consider all the circumstances, including the Tenant's and the Landlord's situations to determine if it would be appropriate to grant section 83 relief from eviction.
13. The Landlord's representative advised that the Landlord has tried to reach out to the Tenant for a repayment plan, without success. The Landlord's representative was not made aware of any children living at the rental unit or other relevant issues for consideration under s.83.
14. The Tenant did not attend the hearing, and thus did not provide any evidence that may be relevant to my determination under s. 83.
15. I have considered all of the disclosed circumstances in accordance with subsection 83 of the *Residential Tenancies Act, 2006* (RTA), including whether the Landlord attempted to negotiate a repayment agreement with the Tenant, and find that it would be unfair to deny eviction pursuant to subsection 83(1) of the Act.

It is ordered that:

1. The request to review order LTB-L-059785-22 issued on August 2, 2023 is granted. The order is cancelled and replaced with this order.
2. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
3. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$4,999.72 if the payment is made on or before December 31, 2023. See Schedule 1 for the calculation of the amount owing.
- OR**
- \$6,054.15 if the payment is made on or before January 5, 2024. See Schedule 1 for the calculation of the amount owing.
4. 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 January 5, 2024 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
5. **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 January 5, 2024**
6. As of the date of the hearing, the amount of the rent deposit and interest the Landlord owes on the rent deposit exceeds the arrears of rent, compensation and the cost of filing the application the Landlord is entitled to by \$339.20. See Schedule 1 for the calculation of the amount owing. However, the Landlord is authorized to deduct from the amount owing

to the Tenant \$34.67 per day for compensation for the use of the unit starting September 29, 2023 until the date the Tenant moves out of the unit.

7. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
8. If the unit is not vacated on or before January 5, 2024, then starting January 6 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 January 6, 2024.

December 6, 2023

Date Issued

Peter Nicholson

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 July 6, 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 December 31, 2023

Rent Owing To December 31, 2023 and App. Filing Fee (\$186)	\$17,976.72
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$12,977.00
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	- \$0.00
Total the Tenant must pay to continue the tenancy	\$4,999.72

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before January 5, 2024

Rent Owing To January 31, 2024 and App. Filing Fee (\$186)	\$19,031.15
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$12,977.00
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	- \$0.00
Total the Tenant must pay to continue the tenancy	\$6,054.15

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

Rent Owing To Hearing Date and App. Filing Fee (\$186)	\$13,689.67
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$12,977.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$1,010.02
Less the amount of the interest on the last month's rent deposit	- \$41.85
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	- \$0.00
Total amount owing to the Landlord	\$(339.20)

Plus daily compensation owing for each day of occupation starting September 29, 2023	\$34.67 (per day)
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