



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

**Citation:** Falco Properties v Assuncao-Costa, 2023 ONLTB 67171

**Date:** 2023-10-20

**File Number:** LTB-L-066830-23

**In the matter of:** 1601, 3275 SHEPPARD AVENUE EAST  
TORONTO ONTARIO M1T3P1

**Between:** Falco Properties Landlord

### **And**

Cristina Assuncao-Costa Tenant

Falco Properties (the 'Landlord') applied for an order to terminate the tenancy and evict Cristina Assuncao-Costa (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on September 26, 2023.

The Landlord's Agent Nancy Gallucci and the Landlord's Property Manager Davyd Lipkin attended the hearing. The Tenant also 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 \$1,606.07. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$52.80. This amount is calculated as follows: \$1,606.07 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 September 30, 2023 are \$8,009.53. The Tenant agreed that arrears in this amount were owing.
7. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$1,606.07 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 \$29.59 is owing to the Tenant for the period from January 1, 2023 to September 26, 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
11. When asked at the hearing, the Landlord's Agent stated that she was unaware of any reasons which would warrant a delay or denial of an eviction.
12. The Tenant provided income information which demonstrated that she has an ability to pay the lawful monthly rent moving forward as well as make rental payments by virtue of taking on a roommate for assistance with payments. The Tenant stated that she intends to pay off all of the arrears owing within five to seven days of the hearing date as she has recently secured a loan specifically for that purpose. The Tenant stated that she would like between 30-60 days to move if the tenancy were terminated.
13. Given that the Tenant has secured a loan for the payment of the arrears and stated that she has an intention to make an immediate payment in satisfaction of the arrears in full, I find that a voidable order for termination of the tenancy is appropriate as the Tenant will have had 24 days from the hearing date to the date of this order to carry out her offer to repay the Landlord.

**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:**
  - \$9,816.60 if the payment is made on or before October 31, 2023. 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 October 31, 2023 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 October 31, 2023.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$6,341.60. 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 \$52.80 per day for the use of the unit starting September 27, 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 October 31, 2023, the Tenant will start to owe interest. This will be simple interest calculated from November 1, 2023 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before October 31, 2023, then starting November 1, 2023, 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 November 1, 2023.

**October 20, 2023**

**Date Issued**

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Madeline Ntoukas

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 May 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 October 31, 2023**

Rent Owing To October 31, 2023	\$9,615.60
Application Filing Fee	\$201.00
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>\$9,816.60</b>

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

Rent Owing To Hearing Date	\$7,776.26
Application Filing Fee	\$201.00
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 of the last month's rent deposit	- \$1,606.07
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$29.59
<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>\$6,341.60</b>
Plus daily compensation owing for each day of occupation starting September 27, 2023	\$52.80 (per day)