



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

Citation: IMH Pool X LP v Safavi, 2023 ONLTB 69454

Date: 2023-10-18

File Number: LTB-L-018146-23

In the matter of: 401, 30 CLARK AVE
THORNHILL ON L3T1S2

Between: IMH Pool X LP Landlord

And

Reza Safavi and Farzaneh Maharlooei Tenant

IMH Pool X LP (the 'Landlord') applied for an order to terminate the tenancy and evict Reza Safavi and Farzaneh Maharlooei (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on June 22, 2023.

The Landlord's Representative David Ciobotaru and the Tenant, only Reza Safavi for both, assisted by a translator Ray Zarif, 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 \$1,968.56. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$64.72. This amount is calculated as follows: \$1,968.56 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 June 30, 2023 are \$21,217.16.
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 \$1,635.00 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 \$19.37 is owing to the Tenant for the period from January 1, 2023 to June 22, 2023.
10. Although this matter was contested, the parties agreed as to the amount of arrears owing.
11. The only issue was relief from eviction.
12. 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.
13. In this case, the arrears were substantial.
14. The Tenant said he lost his job, towards the end of Covid. He had to send money to his mother. Now he has a job and he is starting to make things right. He needs help to get back on his feet. The Tenant agreed to pay the rent on time from August, plus payment of \$300 - \$800/month. To take the mean of \$400, that would mean 53 months of payments, or 4.5 years. He wanted to pay the minimum though of \$300/month.
15. He makes \$2,400 as an electrician, and \$2000 as an Uber driver. He earns \$4,400 a month. His wife earns \$1,400 a month in a job she just started. Household income is \$5,800.
16. Their expenses are: food \$550, rent \$1,968.56, fuel \$100, car \$400, cell phone \$35/month, wife's phone \$30, TV \$40. So their expenses are \$3,123.56/month.
17. So they have a residual income of \$2,676.44.
18. But the Tenant has been an Uber driver for 2 years, so he has been bringing in at least \$2,000/month. He diverted funds to help his mother, who then passed away.
19. He claims he did not know he could pay part of the rent.
20. His daughter is in a bad mental space. He claims he does not have first and last month's rent. They will lose their friends.
21. The Landlord argues that the Tenant did not communicate with them, which I accept. Even though the Landlord is a corporation, there are issues. Waiting 4.5 – 6 years to pay off the arrears is not desirable to the Landlord. The Landlord is not prepared to finance this. The

Tenant could have reached out to the rent bank, or community, if he could not pay. The Landlord owns the building with 100 units in the building.

22. In this situation, I am sympathetic to the Tenant, but I will rule in favor of the Landlord.
23. I find that the Tenant made no effort to deal with the Landlord in a timely manner before arrears became substantial.
24. Even though the Tenant has a residual income of \$2,676.44, he was only willing to pay the minimum of \$300/month to the Landlord. That would require 6 years to pay off the arrears. Further, despite a substantial amount of residual income, he was not willing to pay rent on time till August.
25. Further, time has passed since the hearing and the Tenant has had 3 more months to set things straight.
26. I find that a standard order is appropriate here.

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:**
 - \$29,277.40 if the payment is made on or before October 29, 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 29, 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 29, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$19,204.07. 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 \$64.72 per day for the use of the unit starting June 23, 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 29, 2023, the Tenant will start to owe interest. This will be simple interest calculated from October 30, 2023 at 7.00% annually on the balance outstanding.

8. If the unit is not vacated on or before October 29, 2023, then starting October 30, 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 October 30, 2023.

October 18, 2023

Date Issued

James Campbell

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 April 30, 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 29, 2023

Rent Owing To October 31, 2023	\$29,091.40
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
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	\$29,277.40

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

Rent Owing To Hearing Date	\$20,672.44
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
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	- \$1,635.00
Less the amount of the interest on the last month's rent deposit	- \$19.37
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	\$19,204.07
Plus daily compensation owing for each day of occupation starting June 23, 2023	\$64.72 (per day)