



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** IMH POOL VIII v Muhiadian, 2023 ONLTB 65194

**Date:** 2023-10-04

**File Number:** LTB-L-034226-23

**In the matter of:** 812-S, 2185 SHERIDAN PARK DR  
MISSISSAUGA ON L5K1C7

**Between:** IMH POOL VIII Landlord

**And**

Adar Muhiadian Tenant

IMH POOL VIII (the 'Landlord') applied for an order to terminate the tenancy and evict Adar Muhiadian (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on September 12, 2023.

The Landlord's Representative, Prathana Bhat, and the Tenant 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 \$1,806.42. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$59.39. This amount is calculated as follows: \$1,806.42 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 \$11,282.52.
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 \$1,762.16 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 \$30.78 is owing to the Tenant for the period from January 1, 2023 to September 12, 2023.

**Section 83 Considerations**

10. 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 grant relief from eviction subject to the condition(s) set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act. The Tenant is being given an opportunity to preserve the tenancy by paying the arrears in accordance with a payment plan.
11. The tenancy began in October 2016.
12. The Tenant testified that she fell behind due to unexpected events in 2022. She had to visit her father and he passed away.
13. The Tenant was a student and graduated in 2022 and was not employed for a year prior to July 2023. In July 2023, she secured part-time employment and is currently making approximately \$3,175.00 a month. In addition, the Tenant receives \$1,300.00 a month from child benefits. Based on Tenant's testimony, the household monthly expenses, inclusive of rent, total \$3,131.42.
14. The Tenant has two children who reside in the unit. They are 4 and 11 years old.
15. The Tenant testified the rental unit is 5 minutes from the school her children attends and 8 minutes to her work.
16. The Tenant proposed paying the Landlord the new rent as it comes due and \$1,000.00 each month for the arrears starting October 2023.
17. The Tenant submitted that no payments have been made to the Landlord since the application was filed because she had to settle other debts and worked fewer hours in the summer due to her children.
18. The Landlord seeks a termination of the tenancy and submits that the Tenant has not made any good faith payments since March 2023 and has made no attempts to communicate with the Landlord.
19. This application is the second time the Tenant has appeared before the Board. The first application was discontinued as the Tenant paid the arrears and filing fee before the hearing. Based on the Tenant's testimony, I do find that the household income would be sufficient to cover the expenses and meet the proposed payment plan.
20. The loss of the tenancy would also be very prejudicial to the Tenant, given the age of the children and the long tenancy. The Landlord is a corporate landlord and prejudice to the Landlord is alleviated through the Landlord's ability to apply to terminate the tenancy under s. 78 of the Act if the order is breached.
21. The Divisional Court has found that eviction should be ordered as a remedy of last resort, only ordered where it is not possible to bring a tenancy back into good standing. [*Britannia Glen Co-operative Homes v. Singh*, cited in *Toronto Community Housing Corp. v.*

*Thompson*, [2003] O.R.H.T.D. No. 145, *James Aylmer Langford v. Lesley Phipps and Larry Gilpin*, [1992] O.J. No. 4184 (Ont. Gen. Div.)] In this case, I find that it is possible to preserve this tenancy with a reasonable payment plan.

**It is ordered that:**

1. The Tenant shall pay to the Landlord \$11,468.52, which represents the arrears of rent (\$11,282.52) owing to September 30, 2023, and costs (\$186.00) to the Landlord to file the application with the Board.
2. The Tenant shall pay the Landlord the amount owing in paragraph 1 as follows:
  - a) \$1,000.00 by October 20, 2023;
  - b) \$1,000.00 by November 20, 2023;
  - c) \$1,000.00 by December 20, 2023;
  - d) \$1,000.00 by January 20, 2024;
  - e) \$1,000.00 by February 20, 2024;
  - f) \$1,000.00 by March 20, 2024;
  - g) \$1,000.00 by April 20, 2024;
  - h) \$1,000.00 by May 20, 2024;
  - i) \$1,000.00 by June 20, 2024;
  - j) \$1,000.00 by July 20, 2024;
  - k) \$1,000.00 by August 20, 2024; and
  - l) \$468.52 by September 20, 2024.
3. The Tenant shall also pay to the Landlord the rent for October 2023 in full on or before October 9, 2023.
4. The Tenant shall also pay to the Landlord new rent on time and in full as it comes due and owing for the period from November 2023 up to and including September 2024, or until the arrears are paid in full, whichever date is earliest.
5. If the Tenant fails to make any of the payments in accordance with paragraph 2, 3, and 4 and by the dates required, then:
  - a) The Landlord may apply under section 78 of the Act for an order terminating the tenancy and evicting the Tenant, and for the payment of any new arrears of rent and NSF charges not already ordered under paragraph 1 of this order. The Landlord must make the application within 30 days of a breach of a condition set out in paragraphs 2 to 4 of this order.
  - b) The balance owing under paragraph 1 of this order shall become payable on the day following the date of default. The monies owing shall bear interest at the post-judgment interest rate determined under subsection 207(7) of the Act.

**October 4, 2023**  
**Date Issued**

\_\_\_\_\_  
 Vicky Liu  
 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.