



Tribunals Ontario
Landlord and Tenant Board

Tribunaux décisionnels Ontario
Commission de la location immobilière

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

Citation: IMH Pool I LP v Ha, 2023 ONLTB 60949

2023 ONLTB 60949 (CanLII)

**File
Number:**
LTB-L-
007388-
23

In the matter of: 2204, 15 DUNDONALD ST TORONTO
ON M4Y1K4

Between: IMH Pool I LP

Landlord

And

Aaron Ha Tenants Ana Armando Mutolo

IMH Pool I LP (the 'Landlord') applied for an order to terminate the tenancy and evict Aaron Ha and Ana Armando Mutolo (the 'Tenants') because the Tenants did not pay the rent that the Tenants owes.

This application was heard by videoconference on August 29, 2023. The Landlord's Legal Representative, S. Enriquez, and the Tenants attended the hearing.

Determinations:

1. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenants 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 Tenants was still in possession of the rental unit.
3. The lawful rent is \$1,657.59. It is due on the first day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$54.50. This amount is calculated as follows: \$1,657.59 x 12, divided by 365 days.
5. The Tenants has paid \$2,930.00 to the Landlord since the application was filed.
6. The rent arrears owing to August 31, 2023 are \$11,222.47.
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 \$1,609.14 from the Tenants 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 \$21.54 is owing to the Tenants for the period from August 1, 2022 to August 29, 2023.

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Relief from Eviction

10. The Tenants moved into the unit about two years ago and have a young child. They underwent a period of separation and the male Tenant lost his job and fell into depression. He claimed he has been employed for about a month and earns \$3,000.00 monthly. The Tenants, who also receive child tax benefits of \$600.00 monthly, requested an order to pay between \$400.00 to \$650 monthly, in arrears, in addition to ongoing rent.

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11. The Tenants deceptively claimed that they made additional payments to the Landlord totalling \$3,630.00 by money order on June 6, 2023, August 19, 2023 and August 26, 2023 and provided what appeared to be copies of the money order. They subsequently claimed they made an 'honest mistake' in thinking they delivered the payments to the Landlord's office, only when challenged on how it was done so the Landlord could review their surveillance cameras.
12. The Tenants have not paid any rent to the Landlord since April 2023, when they made total payments of \$800.00, far less than the monthly rent. I am not satisfied that they can comply with a conditional order.
13. I have considered all 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 postpone the eviction until October 7, 2023 pursuant to subsection 83(1)(b) of the Act. Additional time is given to the Tenants to either secure alternative accommodation or pay the outstanding amount.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants voids this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$13,066.06 if the payment is made on or before September 30, 2023. See Schedule 1 for the calculation of the amount owing.
- OR**
- \$14,723.65 if the payment is made on or before October 7, 2023. See Schedule 1 for the calculation of the amount owing.
3. The Tenants may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenants has paid the full amount owing as ordered plus any additional rent that became due after October 7, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.
4. **If the Tenants does not pay the amount required to void this order the Tenants must move out of the rental unit on or before October 7, 2023**
5. If the Tenants does not void the order, the Tenants shall pay to the Landlord \$9,700.70. 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 Tenants. See Schedule 1 for the calculation of the amount owing.

6. The Tenants shall also pay the Landlord compensation of \$54.50 per day for the use of the unit starting August 30, 2023 until the date the Tenants moves out of the unit.
7. If the Tenants does not pay the Landlord the full amount owing on or before September 18, 2023, the Tenants will start to owe interest. This will be simple interest calculated from September 19, 2023 at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before October 7, 2023, then starting October 8, 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 8, 2023.

September 7, 2023

Date Issued

Jitewa Edu

Member, Landlord and Tenants 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 8, 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 Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before September 30, 2023

Rent Owing To September 30, 2023	\$15,810.06
Application Filing Fee	\$186.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$2,930.00
Total the Tenants must pay to continue the tenancy	\$13,066.06

B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before October 7, 2023

Rent Owing To October 31, 2023	\$17,467.65
Application Filing Fee	\$186.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$2,930.00

Total the Tenants must pay to continue the tenancy	\$14,723.65
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C. Amount the Tenants must pay if the tenancy is terminated

Rent Owing To Hearing Date	\$14,075.38
Application Filing Fee	\$186.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$2,930.00
Less the amount of the last month's rent deposit	- \$1,609.14
Less the amount of the interest on the last month's rent deposit	- \$21.54
Total amount owing to the Landlord	\$9,700.70
Plus daily compensation owing for each day of occupation starting August 30, 2023	\$54.50 (per day)