



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** Kiefl v Zhang, 2023 ONLTB 58725

**Date:** 2023-08-28

**File Number:** LTB-L-030852-22

**In the matter of:** 601, 428 Sparks Street Unit 302  
Ottawa ON K1R0A8

**Between:** Richard Kiefl Landlord

**And**

Lei Zhang Tenant

Richard Kiefl (the 'Landlord') applied for an order to terminate the tenancy and evict Lei Zhang (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on August 15, 2023.

The Landlord and the Landlord's representative Arashdeep Grewal 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 \$1,919.01. It is due on the 15th day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$63.09. This amount is calculated as follows: \$1,919.01 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 14, 2023 are \$28,670.49.
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 \$1,850.00 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 \$71.49 is owing to the Tenant for the period from July 23, 2021 to August 15, 2023.

10. The Landlord's representative requested that the Board issue a standard order (11-day eviction). 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
11. The Tenant contested the application as she testified that the advertisement for the apartment was 800 square ft and this was incorrect and that the apartment is actually 640 square ft. The Tenant requested a reduced rent of 20% of her monthly rent.
12. The Tenant viewed the apartment and negotiated \$100.00 rebate prior to moving into the rental unit on August 15, 2021. The Tenant did not raise the issue in regard to difference in the size of the rental unit and advertisement until April 29, 2022.
13. The Tenant fell into rent arrears and stopped paying rent. The Tenant also did not provide evidence regarding how the difference in the size of the unit had impacted her since she moved into the rental unit.
14. The Tenant claims that there was damage done to her vehicle from the water in the underground parking area but did not provide evidence to support this claim. The Tenant also claimed that the furnace caused skin irritation but did not provide medical evidence that the furnace in the unit was the actual cause of her skin condition.
15. The Tenant has not paid rent since the application was filed and failed to prove the Landlord was in breach of his maintenance obligations. The rent arrears are substantial and to deny eviction would prejudice 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:**
  - \$28,856.49 if the payment is made on or before September 8, 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 September 8, 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 September 8, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$25,079.08. 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 \$63.09 per day for the use of the unit starting August 16, 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 September 8, 2023, the Tenant will start to owe interest. This will be simple interest calculated from September 9, 2023 at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before September 8, 2023, then starting September 9, 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 September 9, 2023.

2023 ONLTB 58725 (CanLII)

**August 28, 2023**

**Date Issued**

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Maria Shaw

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 March 9, 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 September 8, 2023**

Rent Owing To September 14, 2023	\$28,670.49
Application Filing Fee	\$186.00
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>\$28,856.49</b>

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

Rent Owing To Hearing Date	\$26,814.57
Application Filing Fee	\$186.00
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	- \$1,850.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$71.49
<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>\$25,079.08</b>
Plus daily compensation owing for each day of occupation starting August 16, 2023	\$63.09 (per day)

