



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

**Citation:** Starlight Blackstar OPCO 2 ULC v Borja, 2023 ONLTB 58615

**Date:** 2023-08-22

**File Number:** LTB-L-073563-22

**In the matter of:** 0304, 1450 SHEPPARD AVE W  
NORTH YORK ON M3M2X1

**Between:** Starlight Blackstar OPCO 2 ULC

Landlord

**And**

Marieta Macam Borja

Tenant

Starlight Blackstar OPCO 2 ULC (the 'Landlord') applied for an order to terminate the tenancy and evict Marieta Macam Borja (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on August 16, 2023. The Tenant attended the hearing. The Landlord was represented at the hearing by Christine Daniel.

### **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 \$1,886.88. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$62.03. This amount is calculated as follows: \$1,886.88 x 12, divided by 365 days.
5. The Tenant has paid \$3,700.00 to the Landlord since the application was filed.
6. The rent arrears owing to August 31, 2023, are \$19,014.24.
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 \$1,385.08 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 \$21.63 is owing to the Tenant for the period from January 1, 2023, to August 16, 2023.

*Relief from Eviction*

10. The Tenant does not dispute the amount of rent arrears. The issue before the Board is whether it is appropriate to grant relief from eviction pursuant to s.8 3 of the *Residential Tenancies Act 2006*, (the 'Act').
11. According to s. 83 of the Act when the Board hears an application for an order evicting a tenant, the Board must consider whether there are any circumstances that support granting relief from eviction.
12. The amount of rent arrears is substantial. When I reviewed the Tenant's expenses, I do not there is a payment plan that is realistic to preserve the tenancy. Accordingly, I do not find it appropriate to deny eviction.
13. However, I find it appropriate to delay eviction until November 30, 2023. This would give the Tenant ample to find a new place to live that is within her monthly budget.
14. 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 postpone the eviction until November 30, 2023 pursuant to subsection 83(1)(b) of the Act.

**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:**
  - \$19,200.24 if the payment is made on or before August 31, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

  - \$21,087.12 if the payment is made on or before September 30, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

  - \$22,974.00 if the payment is made on or before October 31, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

  - \$24,860.88 if the payment is made on or before November 30, 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 November 30, 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 November 30, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$16,899.13. 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 \$62.03 per day for the use of the unit starting August 17, 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 2, 2023, the Tenant will start to owe interest. This will be simple interest calculated from September 3, 2023, at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before November 30, 2023, then starting December 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 December 1, 2023

**August 22, 2023**  
**Date Issued**

\_\_\_\_\_  
Bryan Delorenzi  
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 June 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 August 31, 2023**

Rent Owing To August 31, 2023	\$22,714.24
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$3,700.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$19,200.24</b>

**B. Amount the Tenant 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	\$24,601.12
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$3,700.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$21,087.12</b>

**C. 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	\$26,488.00
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	- \$3,700.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$22,974.00</b>

**D. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before November 30, 2023**

Rent Owing To November 30, 2023	\$28,374.88
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$3,700.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$24,860.88</b>

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

Rent Owing To Hearing Date	\$21,819.84
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$3,700.00

<b>Less</b> the amount of the last month's rent deposit	- \$1,385.08
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$21.63
<b>Total amount owing to the Landlord</b>	<b>\$16,899.13</b>
Plus daily compensation owing for each day of occupation starting August 17, 2023	\$62.03 (per day)