



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

**Citation:** Ye v Campbell, 2023 ONLTB 57927

**Date:** 2023-08-21

**File Number:** LTB-L-056040-22

**In the matter of:** UNIT 5, 887 BROADVIEW AVE TORONTO  
ON M4K2P9

**Between:** Juan Ye

Landlord

**And**

Patricia bailey Campbell and Wayne Campbell Tenant Campbell

Juan Ye (the 'Landlord') applied for an order to terminate the tenancy and evict Patricia bailey Campbell and Wayne Campbell (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on July 31, 2023.

The Landlord, Landlord's legal representative Yun Tao Li ('YTL'), the Tenant Patricia Bailey Campbell, and the Tenant's Social Worker Shireen Khimani (SK) attended the hearing.

### **Tenant's Adjournment Request and Maintenance Issues**

1. At the outset of the hearing, the Tenant requested an adjournment as she was admitted to the hospital due to an accident and required time to notify the Board and the Landlord about some maintenance and other issues, including rent amount that she intends to raise under section 82 of the Residential Tenancies Act, 2006 (the 'Act').
2. YTL opposed the adjournment request and stated that the parties are at this hearing because their previous this hearing on April 12, 2023, was adjourned as the Tenant claims she received the notice of hearing one week in advance of the hearing date, and the same reasons mentioned above. YTL opposed the adjournment because the Tenant failed to pay the Landlord the full monthly rent on or before the first day of every month, beginning May 1, 2023, until the next hearing date.

3. The adjournment request is denied, given the Tenant's lack of diligence in seeking counsel, failure to pay the full monthly rent beginning May 1, 2023, before the next hearing date, and her admission of withholding rent due to maintenance issues.
4. Further, the Tenant did not notify the Landlord of their intention to raise these issues prior to the hearing or disclose their supporting evidence prior to the hearing as directed in the Notice of Hearing. Since the Tenant did not meet the disclosure requirements set out in s. 82(1) of the Act and the Board's Rules of Practice, I did not permit her to raise the issues during the hearing. However, the Tenant is entitled to raise these issues by filing her application with the Board.

**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 \$1,350.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$44.38. This amount is calculated as follows:  $\$1,350.00 \times 12$ , divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to July 31, 2023 are \$17,120.00.
7. The Landlord incurred costs of \$202.15 for filing the application and is entitled to reimbursement of those costs.
8. There is no last month's rent deposit.
9. The parties disagreed over the outstanding rent arrears. The Landlord stated that the total arrears, up to July 31, 2023, was \$17,120.00 and that no payments had been made to the Landlord since the application was filed.
10. In response, the Tenant agreed that she had not paid her rent but submitted that the rent amount should be \$1,250.00, as mentioned in the lease agreement, and not the \$1,350 claimed by the Landlord. The Tenant claimed there were instances when the rent was ready for pickup, but the Landlord did not come to collect it. The Tenant claims she receives \$1,150.00 monthly ODSP benefits and has used the uncollected rent to pay her monthly expenses.
11. As the applicant in this proceeding, the Landlord provided an L1/L9 update sheet to the Board as evidence of the current state of accounts, excluding August's rent, in this tenancy. The Landlord testified that the parties agreed to \$1,350.00 monthly rent, in which

\$1,250.00 is for the rent and \$100.00 is for the utility. On her part, the Tenant did not provide any documentation or receipts from any period during the tenancy.

12. On a balance of probabilities, I am satisfied that the Landlord correctly calculated the arrears of rent owed for the rental period of April 2020 to August 2020. In making this finding, I considered the clear, concise and detailed evidence of the Landlord, which establishes the arrears of rent owed.
13. The Tenants' evidence was vague and lacked details to establish their claim that the Landlord did not account for the correct rent amount, which would result in the Landlord's calculations of rent arrears being incorrect. Given the Landlord's detailed evidence, which included the L1/L9 update sheet and the current state of accounts, I would have expected the Tenants to provide proof of additional payments, electronic or otherwise.

### **Relief From Eviction**

14. The Landlord requested a postponed eviction order where the Tenant is to pay May 2023 to August 2023's rent by August 31, 2023, or a standard order to terminate the tenancy between the Landlord and the Tenant. YTL expressed doubt about the Tenant's ability to pay rent arrears because it is significant, and the Tenant had failed to pay the rent in full of May 2023 as per the Board's order dated April 21, 2023.
15. SK informed the Board of her ongoing efforts to obtain financial support from a non-profit and other housing organizations to pay off the rent arrears and requested additional time to pay off the rent arrears.
16. 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 September 30, 2023 pursuant to subsection 83(1)(b) of the Act.
17. Although I understand and empathize with the Tenant's medical issues, it is important to acknowledge that the Tenant has failed to make their monthly payment as directed by the Board since May 2023. Postponing the eviction date to September 30, 2023, gives the Tenant sufficient time to pay the rent arrears and continue the tenancy. Any date beyond September 30, 2023, could adversely affect 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:**
  - \$18,672.15 if the payment is made on or before August 31, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

- \$20,022.15 if the payment is made on or before September 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 September 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 September 30, 2023**
  5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$17,322.15. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
  6. The Tenant shall also pay the Landlord compensation of \$44.38 per day for the use of the unit starting August 1, 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 1, 2023, the Tenant will start to owe interest. This will be simple interest calculated from September 2, 2023 at 6.00% annually on the balance outstanding.
  8. If the unit is not vacated on or before September 30, 2023, then starting October 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 October 1, 2023.

**August 21, 2023**

**Date Issued**

Percy Laryea

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 May 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	\$18,470.00
Application Filing Fee	\$202.15
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>\$18,672.15</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	\$19,820.00
Application Filing Fee	\$202.15
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>\$20,022.15</b>

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

Rent Owing To Hearing Date	\$17,120.00
Application Filing Fee	\$202.15
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	- \$
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$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 amount owing to the Landlord</b>	<b>\$17,322.15</b>
Plus daily compensation owing for each day of occupation starting August 1, 2023	\$44.38 (per day)