



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

Citation: 65 EMMETT AVENUE LTD. v Avila Roja, 2023 ONLTB 49130

Date: 2023-07-12

File Number: LTB-L-000607-23

In the matter of: 1017, 65 EMMETT AVE
YORK ON M6M2E5

Between: 65 EMMETT AVENUE LTD. Landlord

And

Alina Maria Avila Roja, Tenants
Marco Antonio Silva Flores
Alina Maria Avila Roja

65 EMMETT AVENUE LTD. (the 'Landlord') applied for an order to terminate the tenancy and evict Alina Maria Avila Roja, Marco Antonio Silva Flores and Alina Maria Avila Roja (the 'Tenants') because the Tenants did not pay the rent that the Tenants owes.

This application was heard by videoconference on June 5, 2023.

Only the Landlord and the Landlord's representative, David Ciobotaru attended the hearing.

As of 9:55 a.m., the Tenants were not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

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 were still in possession of the rental unit.
3. The lawful rent is \$1,417.10. It is due on the 1st day of each month.

4. Based on the Monthly rent, the daily rent/compensation is \$46.59. This amount is calculated as follows: $\$1,417.10 \times 12$, divided by 365 days.
5. The Tenants have paid \$7,562.00 to the Landlord since the application was filed.
6. The rent arrears owing to June 30, 2023 are \$1,278.78.
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 \$1,382.54 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 \$14.77 is owing to the Tenants for the period from January 1, 2023 to June 5, 2023.

Relief from Eviction

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 postpone the eviction until August 11, 2023 pursuant to subsection 83(1)(b) of the Act.
11. The Tenants did not attend the hearing to give evidence of their circumstances and thus, I did not have the opportunity to hear their evidence regarding their circumstances or to dispute the Landlord's application for an eviction order.
12. The Landlord sought an eviction order with a delay of 30 days from the date of this order. and I find that a 30-day delay to is fair in the circumstances, so the Tenants can arrange their affairs and move, or pay off the arrears and void the eviction order if they are able.

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:**
 - \$2,881.88 if the payment is made on or before July 31, 2023. See Schedule 1 for the calculation of the amount owing.

OR

- \$4,298.98 if the payment is made on or before August 11, 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 August 11, 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 do not pay the amount required to void this order the Tenants must move out of the rental unit on or before August 11, 2023**
 5. As of the date of the hearing, the amount of the rent deposit and interest the Landlord owes on the rent deposit exceeds the arrears of rent, compensation and the cost of filing the application the Landlord is entitled to by \$1,116.68. See Schedule 1 for the calculation of the amount owing. However, the Landlord is authorized to deduct from the amount owing to the Tenants \$46.59 per day for compensation for the use of the unit starting June 6, 2023 until the date the Tenants moves out of the unit.
 6. The Landlord or the Tenants shall pay to the other any sum of money that is owed as a result of this order.
 7. If the unit is not vacated on or before August 11, 2023, then starting August 12, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
 8. 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 August 12, 2023.

July 12, 2023

Date Issued

Camille Clyne

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 February 12, 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 July 31, 2023**

Rent Owing To July 31, 2023	\$10,257.88
Application Filing Fee	\$186.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$7,562.00
Total the Tenants must pay to continue the tenancy	\$2,881.88

B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before August 11, 2023

Rent Owing To August 31, 2023	\$11,674.98
Application Filing Fee	\$186.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$7,562.00
Total the Tenants must pay to continue the tenancy	\$4,298.98

C. Amount the Tenants must pay if the tenancy is terminated

Rent Owing To Hearing Date	\$7,656.63
Application Filing Fee	\$186.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$7,562.00
Less the amount of the last month's rent deposit	- \$1,382.54
Less the amount of the interest on the last month's rent deposit	- \$14.77
Total amount owing to the Landlord	\$(1,116.68)
Plus daily compensation owing for each day of occupation starting June 6, 2023	\$46.59 (per day)