



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

**Citation:** Xiao Chen v Jelena Chernyshov, 2023 ONLTB 46509

**Date:** 2023-06-27

**File Number:** LTB-L-069083-22

**In the matter of:** 167 MAY AVE  
RICHMOND HILL ON L4C3S8

**Between:** Xiao Chen Landlord

**And**

Alexey Chernihiv Tenants  
Jelena Chernyshov

Xiao Chen (the 'Landlord') applied for an order to terminate the tenancy and evict Alexey Chernyshov and Jelena Chernyshov (the 'Tenants') because the Tenants did not pay the rent that the Tenants owes.

The Landlord also claimed charges related to NSF cheques.

This application was heard by videoconference on May 8, 2023. The Landlord and their legal representative, H. Mu attended the hearing.

The hearing was scheduled to commence at 9:00am. As of 9:51am, 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 Nonpayment 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 \$8,000.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$263.01. This amount is calculated as follows: \$8,000.00 x 12, divided by 365 days.
5. The Tenants have not made any payments since the application was filed.
6. The rent arrears owing to May 31, 2023 are \$62,936.00.
7. The Landlord is entitled to \$60.00 to reimburse the Landlord for administration charges and \$21.00 for bank fees the Landlord incurred as a result of 3 cheque given by or on behalf of the Tenants which was returned NSF.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlord collected a last month's rent deposit in the amount of \$8000.00. Collected July 8, 2021.
10. The Landlord's paid interest on the deposit up to September 30, 2022. Interest owing on the deposit from the period October 1, 2022 to June 2023 is \$123.39. This amount shall be deducted from the amount outstanding.
11. As noted, the Tenants did not attend the hearing of this matter 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. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenants and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants void this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
  - \$71,203.00 if the payment is made on or before June 30, 2023. See Schedule 1 for the calculation of the amount owing. This amount exceeds the monetary jurisdiction of the Board. This is an amount that the Tenants can choose to pay if they choose not to vacate the rental unit. The Board is not ordering this amount to be paid. This amount is optional and only required if the Tenants elect to remain in the rental unit.

**OR**

- \$79,203.00 if the payment is made on or before July 8, 2023. See Schedule 1 for the calculation of the amount owing. This amount exceeds the monetary jurisdiction of the Board. This is an amount that the Tenants can choose to pay if they choose not to vacate the rental unit. The Board is not ordering this amount to be paid. This amount is optional and only required if the Tenants elect to remain in the rental unit.
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 have paid the full amount owing as ordered plus any additional rent that became due after July 8, 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 July 8, 2023**
  5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$35,186.00. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application and unpaid NSF charges. See Schedule 1 for the calculation of the amount owing.
  6. The Tenants shall also pay the Landlord compensation of \$263.01 per day for the use of the unit starting May 9, 2023 until the date the Tenants moves out of the unit.
  7. If the Tenants do not pay the Landlord the full amount owing on or before July 8, 2023, the Tenants will start to owe interest. This will be simple interest calculated from July 9, 2023 at 6.00% annually on the balance outstanding.
  8. The Landlord or the Tenants shall pay to the other any sum of money that is owed as a result of this order.
  9. If the unit is not vacated on or before July 8, 2023, then starting July 9, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
  10. 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 July 9, 2023.

**June 27, 2023**

**Date Issued**

---

Curtis Begg

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 January 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 Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before June 30, 2023**

Rent Owing To June 30, 2023	\$70,936.00
Application Filing Fee	\$186.00
NSF Charges	\$81.00
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$0.00
<b>Less</b> the amount the Tenants paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenants for an{abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenants is entitled to	- \$0.00
<b>Total the Tenants must pay to continue the tenancy</b>	<b>\$35,186.00</b> <b>(Board Monetary Jurisdiction)</b>

**B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before July 8, 2023**

Rent Owing To July 31, 2023	\$78,936.00
Application Filing Fee	\$186.00
NSF Charges	\$81.00
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$0.00
<b>Less</b> the amount the Tenants paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenants for an{abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenants is entitled to	- \$0.00
<b>Total the Tenants must pay to continue the tenancy</b>	<b>\$35,186.00</b> <b>(Board Monetary Jurisdiction)</b>

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

Rent Owing To Hearing Date	\$57,040.08
Application Filing Fee	\$186.00
NSF Charges	\$81.00
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$0.00
<b>Less</b> the amount the Tenants paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount of the last month's rent deposit	- \$8,000.000
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$123.39
<b>Less</b> the amount the Landlord owes the Tenants for an {abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenants is entitled to	- \$0.00
<b>Total amount owing to the Landlord</b>	<b>\$35,186.00</b> <b>(Board Monetary Jurisdiction)</b>
Plus daily compensation owing for each day of occupation starting May 9, 2023	\$263.01 (per day)