



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

Citation: IMH Pool IV LP v Bela Botos, 2023 ONLTB 46266

Date: 2023-06-23

File Number: LTB-L-038900-22

In the matter of: 205, 555 THE WEST MALL
ETOBICOKE ON M9C1G8

Between: IMH Pool IV LP Landlord

And

Andras Bokros, Bela Botos, Belane Botos Tenants
and Elizabet Gabriella Aranyosi

IMH Pool IV LP (the 'Landlord') applied for an order to terminate the tenancy and evict Andras Bokros, Bela Botos, Belane Botos and Elizabet Gabriella Aranyosi (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes. The Landlord also claimed charges related to NSF cheques.

A de novo hearing of this application was heard by videoconference on June 16, 2023.

Only the Landlord's representative, Christine Daniel attended the hearing. As of 10:30 a.m. the Tenant was not present or represented at the hearing although properly served with the notice of this hearing by the Board. 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. The Tenants were in possession of the rental unit on the date the application was filed.
3. The Tenants vacated the rental unit on February 13, 2023. Rent arrears are calculated up to the date the Tenants vacated the unit.
4. The lawful rent is \$2,388.32. It was due on the 1st day of each month.
5. The Tenants have not made any payments since the application was filed.
6. The rent arrears owing to February 13, 2023 are \$19,957.40.

7. The Landlord requested the Board order the Tenants to reimburse them for NSF and administrative charges, however this request is denied. Section 87(5) of the Residential Tenancies Act, 2006 (the 'Act') allows the Board to include amounts related to NSF cheques in the total owing to the Landlord by the Tenants. Section 87(5) states:

File Number: LTB-L-038900-22

NSF cheque charges

(5) On an application by a landlord under this section, the Board may include the following amounts in determining the total amount owing to a landlord by a tenant or former tenant in respect of a rental unit:

1. The amount of NSF cheque charges claimed by the landlord and charged by financial institutions in respect of cheques tendered to the landlord by or on behalf of the tenant or former tenant, to the extent the landlord has not been reimbursed for the charges.
 2. The amount of unpaid administration charges in respect of the NSF cheques, if claimed by the landlord, that do not exceed the amount per cheque that is prescribed as a specified payment exempt from the operation of section 134. 2006, c. 17, s. 87 (5); 2020, c. 16, Sched. 4, s. 18 (3).
8. Based on the submissions by the Landlord's representative, I find the charges were not specifically related to NSF cheques tendered but rather pre-authorized payments from a bank account the Tenants had closed. As such an award would be beyond my jurisdiction under that section.
9. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
10. The Landlord collected a rent deposit of \$2,360.00 from the Tenants and this deposit is still being held by the Landlord. The rent deposit is applied to the arrears of rent because the tenancy terminated.
11. Interest on the rent deposit, in the amount of \$15.01 is owing to the Tenant for the period from January 1, 2022 to February 13, 2023.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of February 13, 2023, the date the Tenant moved out of the rental unit
2. The Tenant shall pay to the Landlord \$17,768.39. This amount includes rent arrears owing up to the date the Tenant moved out of the rental unit and the cost of filing the application and unpaid NSF charges. The rent deposit and interest the Landlord owes on the rent deposit is deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.

3. If the Tenant does not pay the Landlord the full amount owing on or before July 4, 2023, the Tenant will start to owe interest. This will be simple interest calculated from July 5, 2023 at 6.00% annually on the balance outstanding.

June 23, 2023

Date Issued

Troy Rossignol

Vice Chair, Landlord and Tenant Board

15 Grosvenor St, 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.

File Number: LTB-L-038900-22

2023 ONLTB 46266 (CanLII)

**Schedule 1
SUMMARY OF CALCULATIONS**

A. Amount the Tenant must pay as the tenancy is terminated

Rent Owing To Move Out Date	\$19,957.40
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$2,360.00
Less the amount of the interest on the last month's rent deposit	- \$15.01
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlord	\$17,768.39

