



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

Citation: Mark v Igwebuike, 2023 ONLTB 44120

Date: 2023-06-19

File Number: LTB-L-043282-22

In the matter of: 3307, 20 SHORE BREEZE DR
ETOBICOKE ON M8V0C7

Between: Innis Mark Landlord

And

David Igwebuike Tenant

Innis Mark (the 'Landlord') applied for an order to terminate the tenancy and evict David Igwebuike (the 'Tenant') because:

- the Tenant did not pay the rent that the Tenant owes (L1 application)
- the Tenant has been persistently late in paying the Tenant's rent (L2 application).

This application was heard by videoconference on June 7, 2023. The Landlord attended the hearing and was represented by Marshall Yarmus, paralegal.

As of 9:30am, the Tenant was 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:

L1 application:

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. The Tenant was in possession of the rental unit on the date the application was filed.
3. The Tenant vacated the rental unit on May 16, 2023. Rent arrears are calculated up to the date the Tenant vacated the unit.
4. The lawful rent is \$3,200.00. It was due on the 1st day of each month.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to May 16, 2023 are \$41,183.36.
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 \$3,200.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit is applied to the arrears of rent because the tenancy terminated.
9. Interest on the rent deposit, in the amount of \$115.11 is owing to the Tenant for the period from June 1, 2021 to May 16, 2023.
10. The arrears of rent claimed exceed the Board's monetary jurisdiction of \$35,000.00. The Landlord's legal representative understood that in accordance with section 207(3) of the *Residential Tenancies Act, 2006* (Act), by pursuing this application before the Board, the Landlord cannot claim any arrears in excess of \$35,000,00 in a new application or before a Court of competent jurisdiction.

L2 application:

11. At the hearing, the Landlord requested that the L2 application be withdrawn. In accordance with subsection 200(4) of the Act, I consent to the withdrawal of the application.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of May 16, 2023, the date the Tenant moved out of the rental unit
2. The Tenant shall pay to the Landlord \$35,186.00. 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. The rent deposit, the interest the Landlord owes on the rent deposit and the amount of arrears in excess of the Board's monetary jurisdiction are 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 June 30, 2023, the Tenant will start to owe interest. This will be simple interest calculated from July 1, 2023 at 6.00% annually on the balance outstanding.

June 19, 2023

Date Issued

Fabio Quattrociocchi
Member, 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.

Schedule 1
SUMMARY OF CALCULATIONS

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

Rent Owing To Move Out Date	\$41,183.36
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	- \$3,200.00
Less the amount of the interest on the last month's rent deposit	- \$115.11
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of arrears in excess of the Board's monetary jurisdiction	- \$2,868.25
Total amount owing to the Landlord	\$35,186.00