



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

**Citation:** Sunrise Towers v Tamar Amala davis, 2023 ONLTB 43928

**Date:** 2023-06-14

**File Number:** LTB-L-026935-22

**In the matter of:** 1601, 1650 SHEPPARD AVE E  
TORONTO ON M2J1V3

**Between:** Sunrise Towers Landlord

### **And**

Judah Akil Yarde and Tamar Amala Davis Tenants

Sunrise Towers (the 'Landlord') applied for an order to terminate the tenancy and evict Judah Akil Yarde and Tamar Amala Davis (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on June 6, 2023.

The Landlord and the Tenants attended the hearing. The Tenants declined the opportunity to speak with Tenant Duty Counsel prior to the commencement of the hearing.

Kathleen Mitchell (Eviction Prevention Worker) also attended to support the Tenants.

### **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 \$2,610.87. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$85.84. This amount is calculated as follows: \$2,610.87 x 12, divided by 365 days.
5. The Tenants have paid \$30,685.25 to the Landlord since the application was filed.

6. It was undisputed the rent arrears owing to June 30, 2023 are \$8,901.97.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

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8. The Landlord collected a rent deposit of \$2,417.59 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 \$22.75 is owing to the Tenants for the period from January 1, 2021 to June 6, 2023.
10. The Tenants requested the Board impose a repayment plan that would allow them to preserve the tenancy and each month pay new rent that comes due as well as \$500.00 towards arrears until paid in full.
11. Tamar Amala (TA) provided testimony regarding personal and financial difficulties that arose (included domestic issue and loss of employment) which impacted her ability to pay her rent. She provided detailed accounts of expenses and current household income. The rental unit is occupied by the Tenants and TA's 4-year old daughter.
12. Kathleen Mitchell, who is an eviction prevention worker confirmed, on behalf of the Tenants, she has been in contact with "EPIC" and if a 12-month repayment plan is granted, they will pay \$3,087.97 towards the arrears owing which will reduce the total to be paid by the Tenants to \$6,000.00. She has assessed the Tenants income vs expenditures and believes the Tenants will be able to repay all the arrears and rent that comes due not only for the next 12 months, but moving forward.
13. The Landlord opposed the repayment plan proposed by the Tenants as being too lengthy therefore prejudicial to the Landlord, but did support a 5-month repayment plan. They noted the arrears owing since filing the application has increased by almost \$3,000.00 and their position was the Tenants failed to make any payments towards rent in September and October of 2022 and failed to adequately communicate with the Landlord which displayed a lack of good faith.
14. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the personal and financial circumstances of the Tenants and the impact an eviction would have on the residents. I balanced this with any potential prejudice to the Landlord if a repayment plan was granted and find that it would not be unfair to grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act. While the Landlord hoped arrears would be paid in full within 5 months, I find increasing the monthly arrears payment would only set up the Tenants for failure. While the repayment plan to be ordered will take 12 months to repay all of the arrears, the Landlord will receive a sizeable lump sum in a timely manner. To reduce any potential prejudice for the Landlord, all payments will be subject to a section 78 clause.

**It is ordered that:**

1. The Tenants shall pay to the Landlord \$9,087.97, which represents the arrears of rent (\$8,901.97), and costs (\$186.00) outstanding for the period ending June 30, 2023 upon the following terms:
    - On or before July 15, 2023 the minimum sum of \$500.00.
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- On or before August 15, 2023, the minimum sum of \$500.00.
    - On or before August 31, 2023 the minimum sum of \$3087.97.
    - Effective September 15, 2023 and on or before the 15th day of each consecutive month thereafter until the debt is paid in full, the minimum sum of \$500.00.
  2. Effective July 01, 2023 and continuing on or before the first day in each consecutive month that follows, the Tenants shall pay the Landlord the full amount of the lawful monthly rent until the debt is paid in full.
  3. If the Tenants fail to make any of the payments in accordance with paragraph 1 or 2 of this order, then:
    - (a) The Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenants, and for the payment of any new arrears of rent and NSF charges not already ordered under paragraph 1 of this order. The Landlord must make the application within 30 days of a breach of a condition set out in paragraph 2 of this order.
    - (b) The balance owing under paragraph 1 of this order shall become payable on the day following the date of default. The monies owing shall bear interest at the postjudgment interest rate determined under subsection 207(7) of the Act.

**June 14, 2023****Date Issued**

Troy Rossignol

Vice Chair, 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.