



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

**Citation:** Victoria Park Community Homes v Nicole Aguiar, 2023 ONLTB 42984

**Date:** 2023-06-14

**File Number:** LTB-L-059446-22

**In the matter of:** 50, 1049 RYMAL RD E  
HAMILTON ON L8W3M3

**Between:** Victoria Park Community Homes Landlord

**And**

Nicole Aguiar Tenant

Victoria Park Community Homes (the 'Landlord') applied for an order to terminate the tenancy and evict Nicole Aguiar (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on April 25, 2023. The Tenant attended the hearing. The Landlord was represented at the hearing by Karolina Aguiar.

### **Determinations:**

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. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$85.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$2.79. This amount is calculated as follows: \$85.00 x 12, divided by 365 days.
5. The rent arrears owing to April 30, 2023 are \$3,970.00.

6. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
7. The Landlord collected a rent deposit of \$88.49 from the Tenant 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.
8. Interest on the rent deposit, in the amount of \$0.70 is owing to the Tenant for the period from January 1, 2023 to April 25, 2023.

*Relief from Eviction*

9. The Tenant does not dispute the amount of rent arrears. The issue before the Board is whether it is appropriate to grant relief from eviction pursuant to s.83 of the *Residential Tenancies Act 2006*, (the 'Act').
10. According to s. 83 of the Act when the Board hears an application for an order evicting a tenant, the Board must consider whether there are any circumstances that support granting relief from eviction.
11. The Tenant is on Ontario Works. The Tenant submitted that Ontario Works is willing to pay the rent arrears on her behalf, however more time is needed to process the payment.
12. Given the circumstances, I find it appropriate to delay eviction until July 30, 2023. This will give the Tenant enough time to work with Ontario Works to pay the rent arrears. (1)(a) of the Act.
13. 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 July 31, 2023 pursuant to subsection 83(1)(b) of the Act.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
2. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
  - \$4,326.00 if the payment is made on or before June 30, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

  - \$4,411.00 if the payment is made on or before July 31, 2023. See Schedule 1 for the calculation of the amount owing.
3. The Tenant may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenant has paid the full amount owing as ordered plus any additional rent

that became due after July 31, 2023, but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.

4. **If the Tenant does not pay the amount required to void this order the Tenant must move out of the rental unit on or before July 31, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$4,051.56. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$2.79 per day for the use of the unit starting April 26, 2023, until the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlord the full amount owing on or before June 25, 2023, the Tenant will start to owe interest. This will be simple interest calculated from June 26, 2023, at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before July 31, 2023, then starting August 1, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
9. 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 1, 2023.

2023 ONLTB 42984 (CanLII)

**June 14, 2023**

**Date Issued**

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Bryan Delorenzi

Member, 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.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on February 1, 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 Tenant 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	\$7,800.00
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Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$3,660.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$4,326.00</b>

**B. Amount the Tenant 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	\$7,885.00
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$3,660.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$4,411.00</b>

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

Rent Owing To Hearing Date	\$7,614.75
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$3,660.00
<b>Less</b> the amount of the last month's rent deposit	- \$88.49
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$0.70
<b>Total amount owing to the Landlord</b>	<b>\$4,051.56</b>
Plus daily compensation owing for each day of occupation starting April 26, 2023	\$2.79 (per day)