



**Tribunals Ontario**  
Landlord and Tenant Board

**Tribunaux décisionnels Ontario**  
Commission de la location immobilière

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

**Citation:** Harnek Singh Kang v Roberto Caparelli, 2023 ONLTB 43741

2023 ONLTB 43741 (CanLII)

**In the matter of:** 14 NICOLA CRT  
VAUGHAN ON L4L7N8

**Between:** Harnek Singh Kang and Sandeep Kaur

Landlords

Kang

**And**

2780826 Ontario inc., Ida Caparelli and

Tenants

Roberto Caparelli

Harnek Singh Kang and Sandeep Kaur Kang (the 'Landlords') applied for an order to terminate the tenancy and evict 2780826 Ontario inc., Ida Caparelli and Roberto Caparelli (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on June 5, 2023.

Only Harnek Singh Kang for the Landlords and the Landlords' Legal Representative, Kuldip Singh, attended the hearing.

As of 10:13 a.m., 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 Landlords' evidence.

**Determinations:**

1. The Landlords 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 Landlord's Legal Representative confirmed that this is a residential tenancy and that the Landlord acknowledges the monetary jurisdiction of the Board is \$35,000.00.
3. As of the hearing date, the Tenants were still in possession of the rental unit.
4. The lawful rent is \$4,350.00. It is due on the 15th day of each month.
5. Based on the Monthly rent, the daily rent/compensation is \$143.01. This amount is calculated as follows: \$4,350.00 x 12, divided by 365 days.
6. The Tenants have not made any payments since the application was filed.
7. The rent arrears owing to June 14, 2023 are \$47,850.00.
8. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlords collected a rent deposit of \$4,350.00 from the Tenants and this deposit is still being held by the Landlords. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
10. Interest on the rent deposit, in the amount of \$150.22 is owing to the Tenant for the period from July 12, 2021 to June 5, 2023.
11. 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. The Tenants have not made any payments since the application was filed and did not attend the hearing to offer any other considerations.
12. **The amount referenced in paragraph 2 below is not subject to section 207(1) of the Residential Tenancies Act, 2006 (the 'Act'), which limits the Boards monetary jurisdiction to \$35,000.00 plus the application filing fee. In *Hornstein et al. v. Royal Bank*, 2010 ONSC 3134, the Divisional Court granted the Landlord's motion to dismiss the Tenant's appeal of the Landlord Tenant Board order, saying:**

**[10] Section 201(1) gives the Board power to order payment to any given person of a sum of money not exceeding the monetary jurisdiction of the Small Claims Court.**

**[11] Section 74(5) and (6) provide for the voiding of an order before the order becomes enforceable; the subsections require payment to the landlord or the Board of the amount specified pursuant to the eviction order.**

[12] Section 74(11) provides for the voiding of an eviction order after it becomes enforceable, upon payment of the outstanding arrears of rent.

[13] To hold that the monetary cap applies to the “outstanding arrears of rent” would result in an absurdity. The defaulting tenant could continue *ad infinitum* to merely pay the monetary limit and continue in possession, all the while continuing to default. (emphasis added)

13. The Landlords' Legal Representative requested that the Board include an expedited enforcement clause in this order. For the following reasons, that request is denied. The L1 Application for rent owing is captured by section 84 of the Act. Section 84 requires the Board include an expedited enforcement clause in an order that is based on certain notices/grounds for termination. Termination for non-payment of rent is not included in the grounds listed in section 84 of the Act. It would not be appropriate for the Board to exercise its discretion to order expedited enforcement in this case. Discretionary expedited enforcement clauses are generally only included in the most serious and exceptional cases and typically do not apply to applications

for rent arrears. While I am mindful of the Landlords' concerns with respect to the amount of arrears that have accrued and the difficult situation this has placed the Landlords in, based on the submissions before me, I do not find this to be an urgent issue that would warrant an expedited eviction.

14. This order contains all the reasons for the decision within it. No further reasons shall be issued.

**It is ordered that:**

1. The tenancy between the Landlords 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 Landlords or to the LTB in trust:**
  - \$48,036.00 if the payment is made on or before June 14, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

- \$52,386.00 if the payment is made on or before June 23, 2023. See Schedule 1 for the calculation of the amount owing.

These amounts exceed the monetary jurisdiction of the Board. These are amounts 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. Therefore, the Board is not ordering this amount to be paid and is not ordering an amount that exceeds the limit.

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 June 23, 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 June 23, 2023**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$42,332.00. 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 Landlords owe on the rent deposit are deducted from the amount owing by the Tenants. See Schedule 1 for the calculation of the amount owing. **This amount is subject to the monetary jurisdiction set out in section 207(1) of the Act, therefore, the Landlords are entitled to a maximum of \$35,000.00**
6. The Tenants shall also pay the Landlords compensation of \$143.01 per day for the use of the unit starting June 6, 2023 until the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlords the full amount owing on or before June 23, 2023, the Tenants will start to owe interest. This will be simple interest calculated from June 24, 2023 at 6.00% annually on the balance outstanding.
8. The Landlords 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 June 23, 2023, then starting June 24, 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 Landlords on or after June 24, 2023.

**June 12, 2023**

**Date Issued**

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Diane Wade

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 December 24, 2023 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 14, 2023**

Rent Owing To June 14, 2023	\$47,850.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$48,036.00</b>

**B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before June 23, 2023**

Rent Owing To July 14, 2023	\$52,200.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$52,386.00</b>

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

Rent Owing To Hearing Date	\$46,646.22
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$0.00

<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount of the last month's rent deposit	- \$4,350.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$150.22
<b>Less</b> the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total amount owing to the Landlord</b>	<b>\$42,332.00</b>
Plus daily compensation owing for each day of occupation starting June 6, 2023	\$143.01 (per day)