



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

**Citation:** 1175326 ONTARIO LTD. v Joan De gula, 2023 ONLTB 40403

**Date:** 2023-06-02

**File Number:** LTB-L-065569-22

**In the matter of:** 104, 105 ROWENA DR  
NORTH YORK ON M3A1R2

**Between:** 1175326 ONTARIO LTD. Landlord

**And**

Armida Ongwico Tenant

1175326 ONTARIO LTD. (the 'Landlord') applied for an order to terminate the tenancy and evict Armida Ongwico ('Tenant') because the Tenant did not pay the rent that the Tenant owes.

The Landlord also claimed charges related to NSF cheques.

This application was heard by videoconference on May 9, 2023.

The Landlord's Representative Nidhi Sharma and the Tenant attended the hearing.

### **Determinations:**

#### Parties to the Application

1. The Landlord's application lists Armida Ongwico, Joan De Gula and Mary Maranan as tenants. At the hearing all three listed tenants and the Landlord consented to Joan De Gula and Mary Maranan being removed from the application as they are no longer in possession of the rental unit. The only Tenant is Armida Ongwico.

#### The Application

2. 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.

3. As of the hearing date, the Tenant was still in possession of the rental unit.
4. The lawful rent is \$1,972.84. It is due on the 1st day of each month.
5. Based on the Monthly rent, the daily rent/compensation is \$64.86. This amount is calculated as follows: \$1,972.84 x 12, divided by 365 days.
6. The Tenant has paid \$7,000.00 to the Landlord since the application was filed.
7. The rent arrears owing to May 31, 2023 are \$14,820.67.
8. The Landlord is entitled to \$160.00 to reimburse the Landlord for administration charges and \$40.00 for bank fees the Landlord incurred as a result of 8 cheques given by or on behalf of the Tenant which was returned NSF.
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 \$1,924.73 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.
11. Interest on the rent deposit, in the amount of \$28.65 is owing to the Tenant for the period from July 1, 2022 to May 9, 2023.

#### Relief from Eviction

#### Payment Plan

12. The Tenant requested relief from eviction in the form of a repayment plan. The Tenant testified she will be receiving \$5,600.00 on May 20, 2023 and after that she can pay \$500.00 a month towards the arrears. On that schedule it will take the Tenant a year and half to pay off the arrears.
13. The Tenant testified that she currently makes \$2,390.00 a month but she is starting a parttime weekend job on May 13, 2023 that will add an additional \$2,000.00 to her monthly income.
14. The Tenant testified that as of May 1, 2023 she has a roommate who can help her pay the rent. However, despite the roommate paying the Tenant \$1,000.00 in May 2023, as of the hearing date the Tenant had made no rent payments in May 2023.
15. The Landlord is opposed to a repayment plan as the amount of outstanding arrears is very high and the Landlord does not think the Tenant will abide by it.
16. Having regard to all the circumstances it would be unfair to refuse the eviction and impose a repayment plan. The Tenant's proposed repayment plan will take a year and a half for the

arrears to be paid off. The Tenant has been in arrears since July 2021 and I do not find it fair to impose a year and half repayment plan.

17. I also do think the Tenant will abide by the proposed repayment plan for the following reasons.
18. First, while the Tenant did make a large payment towards the arrears in February 2023, she has not made any payments to the Landlord in March, April, or May 2023.
19. Second, despite receiving \$1,000.00 from her new roommate the Tenant did not pass that money along to the Landlord.
20. Third, in December 2022 the Tenant proposed a repayment plan to the Landlord of \$500.00 a month. However, the Tenant did not make the payments she suggested. At the hearing the Tenant indicated that she did not realize the Landlord had accepted her repayment plan, so she did not make the payments. However, that explanation does not account for why the Tenant has also not been making rent payments.
21. Fourth, despite the matter being held down for the Tenant to provide supporting documentation regarding her new weekend job and the \$5,600.00 payment she indicated she will be receiving on May 20, 2023, no supporting documentation was provided by the Tenant on the day of the hearing. The Tenant indicated that she did not have the materials organized and available.

#### Post Hearing Submissions

22. The Tenant requested an extension to provide supporting materials but that was denied. The notice of hearing clearly states that each party must give the other party a complete copy of all evidence they want to use during the hearing as soon as possible but at least 7 days before the hearing. This is also stated in the Board's Rules of Procedure. Despite not disclosing the materials in a timely manner the Tenant was provided with time during the hearing to provide the documentation but failed to do so.
23. Despite denying the Tenant's request to provide post hearing submissions the Tenant sent the Board evidence after the hearing. As this evidence was not submitted at the hearing and the Landlord had no opportunity to challenge the evidence, I have not considered the additional supporting documentation in my decision. I also note that the supporting documentation regarding the weekend job is a letter that is dated the date after the hearing which means it did not exist at the time of the hearing. Additionally, there is no documentation regarding the \$5,600.00 payment she will receive in May 2023. The Tenant mentions attaching a document regarding it, but her email has no attachments.

#### Postponement of the Eviction

24. The Tenant also requested relief from eviction in the form of a postponed eviction. The Tenant is a single mother with a 13-year-old child who lives with her. The Tenant also now has a roommate who will be affected by an eviction order.

25. The Landlord is opposed to any postponement of the eviction.
26. 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 June 30, 2023 pursuant to subsection 83(1)(b) of the Act. This is to provide the Tenant with time to find new living accommodations. However, I have declined to postpone the eviction any later than June 30, 2023 because of the large amount of outstanding arrears and the length of time that arrears have been outstanding.

**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:**
  - \$17,179.51 if the payment is made on or before June 30, 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 June 30, 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 June 30, 2023.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$11,864.19. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application and unpaid NSF charges. 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 \$64.86 per day for the use of the unit starting May 10, 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 13, 2023, the Tenant will start to owe interest. This will be simple interest calculated from June 14, 2023 at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before June 30, 2023, then starting July 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 July 1, 2023.

**June 2, 2023**  
**Date Issued**

Amanda Kovats  
 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 January 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	\$23,793.51
Application Filing Fee	\$186.00
NSF Charges	\$200.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$7,000.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$17,179.51</b>

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

Rent Owing To Hearing Date	\$20,431.57
Application Filing Fee	\$186.00
NSF Charges	\$200.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$7,000.00
<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	- \$1,924.73
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$28.65
<b>Total amount owing to the Landlord</b>	<b>\$11,864.19</b>
Plus daily compensation owing for each day of occupation starting May 10, 2023	\$64.86 (per day)