



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

**Citation:** Capreit Limited Partnership v Anthony Kyambad Mukasa, 2023 ONLTB 40754

**Date:** 2023-05-29

**File Number:** LTB-L-057142-22

**In the matter of:** 212, 25 BRIDESBURG DR  
ETOBICOKE ON M9R2K6

**Between:** Capreit Limited Partnership Landlord

**And**

Anthony Kyambad Mukasa Tenants  
Sharon Mukasa

Capreit Limited Partnership (the 'Landlord') applied for an order to terminate the tenancy and evict Anthony Kyambad Mukasa and Sharon Mukasa (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on April 13, 2023. The Landlord's legal representative, G. Paine and the first named Tenant attended the hearing.

**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 \$2,567.31. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$84.40. This amount is calculated as follows: \$2,567.31 x 12, divided by 365 days.
5. The Tenant has paid \$2,900.00 to the Landlord since the application was filed.
6. The rent arrears owing to April 30, 2023 are \$17,325.43.
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 \$2,504.70 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.
9. Interest on the rent deposit, in the amount of \$18.04 is owing to the Tenant for the period from February 1, 2022 to April 13, 2023.

10. 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 Tenant and find that it would not be unfair to grant relief from eviction and postpone the eviction until June 30, 2023, pursuant to subsection 83(1) of the Act.
11. The Tenant testified that the reason for the arrears was due to a job loss in the past year. However, as of the date of the hearing he was anticipating a new job in June of 2023. The Tenant asserted that the additional income he would be receiving from this new job would be approximately \$8,000.00 per month. However, the Tenant did not provide any documentary evidence that he obtained this job.
12. I must consider the evidence as of the date of the hearing. As of the date of the hearing, the Tenants' new employment and the anticipated increase in their income, is at best speculative. The Tenant also did not provide an employment contract, a letter from the perspective employer, or any other like document to support the fact that the Tenant did in fact obtain new employment. Where a party is claiming that they have new employment where they are making substantially more money, I think it would be only logical that they provide these documents at the hearing for me to consider.
13. That being said, I believe that the Tenant should be given an opportunity to pay back the arrears that they owe and stay in the unit, or find alternative accommodations for their family. The Tenant submitted that he has 4 kids living in the rental unit and that he would need until the end of June 2023, to find alternative accommodation.
14. There is a last month's rent on deposit and although there are additional arrears that have accumulated since the hearing, some of which are offset by this deposit. Given the date of the order, the additional time is not so extensive that would severely prejudice the Landlord. As such, I find this termination date to be appropriate given the circumstances of the parties.

**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:**
  - \$20,078.74 if the payment is made on or before May 31, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

  - \$22,646.05 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 \$13,518.58. 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 \$84.40 per day for the use of the unit starting April 14, 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 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.
8. The Landlord or the Tenant 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 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.
10. 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.

**May 29, 2023**  
**Date Issued**

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Curtis Begg  
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 10, 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 May 31, 2023**

Rent Owing To May 31, 2023	\$22,792.74
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	- \$2,900.00
<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>\$20,078.74</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 30, 2023**

Rent Owing To June 30, 2023	\$25,360.05
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	- \$2,900.00
<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>\$22,646.05</b>

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

Rent Owing To Hearing Date	\$18,755.32
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	- \$2,900.00
<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	- \$2,504.70
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$18.04
<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>\$13,518.58</b>
Plus daily compensation owing for each day of occupation starting April 14, 2023	\$84.40 (per day)

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