



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

Citation: Jifeng Wang v Yicheng Lu, 2023 ONLTB 34665

Date: 2023-05-11

File Number: LTB-L-056807-22

In the matter of: 1904, 225 VILLAGE GREEN SQ
SCARBOROUGH ON M1S0N4

Between: Jifeng Wang Landlords
Zumei Liu

And

Yicheng Lu Tenant

Jifeng Wang and Zumei Liu (the 'Landlords') applied for an order to terminate the tenancy and evict Yicheng Lu (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on April 24, 2023.

Only the Landlord’s legal representative, Rong Wei Yu, attended the hearing.

As of 1:31pm, the Tenant was 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 Landlord's evidence.

Determinations:

1. The Landlords served the Tenant with a valid Notice to End Tenancy Early for Nonpayment 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 as of December 27, 2022 is \$2,600.00. It is due on the 27th day of each month.
4. The rent charged starting December 27, 2022 is an increase of \$800.00 per month which is above the rent increase guideline. However, it was the Landlords evidence that the

rental unit is located in a building where no part of the building was occupied for residential purposes on or before November 15, 2018 and therefore the rental unit is exempt from guideline rent increase pursuant to Subsection 6.1(2) of the *Residential Tenancies Act, 2006* (the 'Act').

5. The Landlords representative further indicated that they served the Tenant with an N2 notice of rent increase when they served the Tenant the N4 Notice by mail on September 6, 2022. The Notices were therefore effectively served by mail on September 11, 2022 which is more than 90 days in advance of the rent increase for December 27, 2022.
6. Without evidence to the contrary, I find that the rental unit is exempt per Subsection 6.1(2) of the Act and the Landlord is able to lawfully increase the rent by \$800.00 as of December 27, 2023.
7. Based on the Monthly rent, the daily rent/compensation is \$85.48. This amount is calculated as follows: \$2,600.00 x 12, divided by 365 days.
8. The Tenant has not made any payments since the application was filed.
9. The rent arrears owing to April 26, 2023 are \$17,600.00.
10. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
11. The Landlords collected a rent deposit of \$1,800.00 from the Tenant 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.
12. Interest on the rent deposit, in the amount of \$53.28 is owing to the Tenant for the period from August 11, 2021 to April 24, 2023.
13. The Tenant did not attend the hearing to make submissions regarding their unique circumstances to consider whether any relief from eviction would be warranted under all of the circumstances.
14. The Tenant did not respond to the Landlords representative's recent correspondence regarding a payment plan that they sent to the Tenant on April 18, 2023 before the hearing. The Landlord also tried reaching out to the Tenant shortly after the N4 Notice of termination was served through their real-estate agent, however, the Tenant did not communicate with the agent either.
15. 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 Landlords attempted to negotiate a repayment agreement with the Tenant, and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

It is ordered that:

1. The tenancy between the Landlords 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 Landlords or to the LTB in trust:**
 - \$20,124.68 if the payment is made on or before May 22, 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 May 22, 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 May 22, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$15,811.64. 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 Landlords compensation of \$85.48 per day for the use of the unit starting April 25, 2023 until the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlords the full amount owing on or before May 22, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 23, 2023 at 6.00% annually on the balance outstanding.
8. The Landlords 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 May 22, 2023, then starting May 23, 2023, the Landlords 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 May 23, 2023.

May 11, 2023

Date Issued

Terri van Huisstede
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 November 23, 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.

*Note: When the Board directs payment-out, the Canadian Imperial Bank of Commerce will issue a cheque to the appropriate party named in this notice. The cheque will be in the amount directed plus any interest accrued up to the date of the notice

**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 22, 2023

Rent Owing To May 26, 2023	\$19,938.68
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlords since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlords owe the Tenant for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total the Tenant must pay to continue the tenancy	\$20,124.68

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

Rent Owing To Hearing Date	\$17,478.92
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlords since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$1,800.00
Less the amount of the interest on the last month's rent deposit	- \$53.28
Less the amount the Landlords owe the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlords	\$15,811.64
Plus daily compensation owing for each day of occupation starting April 25, 2023	\$85.48 (per day)

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