



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

**Citation:** IMH POOL XV LP v Casasha Berry, 2023 ONLTB 34639

**Date:** 2023-05-05

**File Number:** LTB-L-008619-22

**In the matter of:** 709, 85 SILVER SPRINGS BLVD  
SCARBOROUGH ON M1V1W3

**Between:** IMH POOL XV LP Landlord

**And**

Casasha Berry Tenants  
Sheila Elaine Channer

IMH POOL XV LP (the 'Landlord') applied for an order to terminate the tenancy and evict Casasha Berry and Sheila Elaine Channer (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

The Landlord also claimed charges related to NSF cheques.

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

The Landlord's legal representative, Sofia Enriquez, and the Tenant, Casasha Berry, attended the hearing.

The other named Tenant is no longer in possession of the rental unit because they have passed away.

**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 \$1,448.23. It is due on the 1st day of each month.

4. Based on the Monthly rent, the daily rent/compensation is \$47.61. This amount is calculated as follows: \$1,448.23 x 12, divided by 365 days.
5. The Tenant has paid \$21,416.90 to the Landlord since the application was filed.
6. The rent arrears owing to April 30, 2023 are \$1,517.86.
7. The Landlord is entitled to \$20.00 to reimburse the Landlord for administration charges and \$0.00 for bank fees the Landlord incurred as a result of 1 cheque given by or on behalf of the Tenant which was returned NSF from June of 2022. The Landlord claimed \$5.00 for the bank fee, however, there was no evidence provided to show the Landlord incurred this charge.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlord collected a rent deposit of \$1,357.27 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.
10. Interest on the rent deposit, in the amount of \$10.60 is owing to the Tenant for the period from January 1, 2023 to April 24, 2023.
11. The Tenant has been struggling financially as their only income is through OW and their child tax credit each month. Combined, the Tenant only receives \$1,767.00 per month.
12. The Tenant has been paying the monthly rent plus an additional \$21.77 towards the arrears each month. The Tenant has lived in the rental unit since November of 2016 and has a 14 year old child at home that she cares for on her own. After the Tenant pays the rent, they only have \$318.77 left over for all of their other household expenses including food. As a result of their limited funds, they tend to pay the rent closer to the end of the month after they receive the child tax credit. The Tenant is perpetually behind in their monthly rent each month and they have been carrying the debt over a period of years without being able to come to a zero balance with the Landlord.
13. The Tenant further indicated that they often go hungry to ensure their child is fed for school and they also frequent the foodbank. If the Tenant is evicted for not catching up, they will have no place to go because of the rising rent prices and her limited income.
14. The Tenant further indicated that they had spoken to a legal clinic on April 21<sup>st</sup> who suggested that she reach out to OW to see if they could provide some additional income support. The Tenant called their worker but had not yet received a response back as of the hearing. The Tenant was also unaware of other potential community resources that could help her catch up on the arrears. For instance, 211 or regional eviction prevention programs that may be available for her jurisdiction.
15. The Tenant proposed to continue paying the rent plus their \$21.77 per month until the balance was paid in full.
16. The Landlord was opposed to the Tenants request on the basis that the Landlord continues to have the ongoing non-payment of rent issue and the Tenant's payment

proposal would be burdensome for the Landlord financially. Also, because the Tenant cannot ensure that rent would be paid on the first of each month in order to consider the plan.

17. At the hearing, I was not satisfied that the Tenant could pay their rent on the first of the month without falling behind further. Once they make their payments, another month become due shortly thereafter and it perpetuates.
18. At the hearing, I rendered a decision that I would provide the Tenant with additional time to May 31, 2023 in order to reach out to community resources to support her clearing up the arrears and getting on track with the rent. However, after considering the timing if it is necessary to apply for services, the application process may not provide the Tenant with the necessary time before the order becomes enforceable.
19. Considering that the Tenant has been paying the monthly rent plus an amount towards the arrears, I find that an additional amount of time would be appropriate under the circumstances to provide the Tenant with additional time to either apply for their additional resources or to locate alternative housing if they are unable to access additional financial resources. The prejudice to the Landlord is minimal in comparison to the Tenants potential loss of housing stability for her and her child.
20. 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.

**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:**
  - \$3,172.09 if the payment is made on or before May 31, 2023. See Schedule 1 for the calculation of the amount owing.
- OR**
- \$4,620.32 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 \$50.40. 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 \$47.61 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 Landlord the full amount owing on or before May 16, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 17, 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 5, 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 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.

\*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 31, 2023**

Rent Owing To May 31, 2023	\$24,382.99
Application Filing Fee	\$186.00

NSF Charges	\$20.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$21,416.90
<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>\$3,172.09</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	\$25,831.22
Application Filing Fee	\$186.00
NSF Charges	\$20.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$21,416.90
<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>\$4,620.32</b>

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

Rent Owing To Hearing Date	\$22,629.17
Application Filing Fee	\$186.00
NSF Charges	\$20.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$21,416.90
<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	- \$1,357.27
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$10.60
<b>Total amount owing to the Landlord</b>	<b>\$50.40</b>
Plus daily compensation owing for each day of occupation starting April 25, 2023	\$47.61 (per day)