



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

Citation: Chau v McKay, 2023 ONLTB 32890

Date: 2023-04-25

File Number: LTB-L-029583-22

In the matter of: 23 CAUSLAND LANE
RICHMOND HILL ON L4S0G5

Between: Po Ki Chau Landlord

And

Tamara McKay Tenant

Po Ki Chau (the 'Landlord') applied for an order to terminate the tenancy and evict and Tamara McKay (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 19, 2023.

The Landlord and the Tenant attended the hearing. The Landlord was represented at the hearing by Pui Sze Cheung

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 \$3,450.00. It is due on the 22nd day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$113.42. This amount is calculated as follows: \$3,450.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to January 21, 2023, are \$31,050.00.

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 \$3,450.00 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 \$48.25 is owing to the Tenant for the period from December 22, 2021, to January 19, 2023.

Section 83 Considerations

10. The Tenant does dispute the amount of rent arrears. The issue before the Board is whether it is appropriate to grant relief from eviction pursuant to s.83 of the Act.
11. According to s. 83 of the Act when the Board hears an application for an order evicting a tenant, the Board must consider whether there are any circumstances that support granting relief from eviction.
12. The Tenant wants to stay in the rental unit but did not put forward a plan that would preserve the tenancy. The Tenant has offered to pay \$10,000. Even if the Tenant were to pay \$10,000.00 the arrears outstanding would still be quite substantial. I am not convinced the Tenant serious about paying the arrears and continuing the tenancy.
13. For these reasons, I do not find circumstances warrant denying eviction.
14. I have considered all the disclosed circumstances in accordance with subsection 83(2) of the Act 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 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:**
 - \$47,417.82 if the payment is made on or before May 6, 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 6, 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 6, 2023**

5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$27,576.93. 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 \$113.42 per day for the use of the unit starting January 20, 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 6, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 7, 2023, at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before May 6, 2023, then starting May 7, 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 May 7, 2023.

April 25, 2023

Date Issued

Bryan Delorenzi

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 7, 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 6, 2023

Rent Owing To May 21, 2023	\$47,231.82
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Total the Tenant must pay to continue the tenancy	\$47,417.82

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

Rent Owing To Hearing Date	\$30,889.18
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount of the last month's rent deposit	- \$3,450.00
Less the amount of the interest on the last month's rent deposit	- \$48.25
Total amount owing to the Landlord	\$27,576.93
Plus daily compensation owing for each day of occupation starting January 20, 2023	\$113.42 (per day)