



**Order under Order under Section 21.2 of the
Statutory Powers Procedure Act and the
Residential Tenancies Act, 2006**

Citation: MEDALLION CORPORATION v NOWAKOWSKI, 2023 ONLTB 31312

Date: 2023-04-14 **File Number:**
LTB-L-055620-22-RV

In the matter of: 905, 560 BIRCHMOUNT ROAD TORONTO
ON M1K1P5

Between: MEDALLION CORPORATION Landlord

And

MARIA NOWAKOWSKI Tenant

Review Order

Medallion Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Maria Nowakowski (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard on January 19, 2023 and resolved by order LTB-L-055620-22 issued on February 10, 2023

On March 8, 2023, the Tenant requested a review of the order and that the order be stayed until the request to review the order is resolved.

On March 9, 2023 interim order LTB-L-055620-22-RV-IN was issued, staying the order issued on February 10, 2023.

This request for review was heard by way of videoconference on March 30, 2023. The Landlord's legal representative Samuel Korman and the Tenant attended the hearing.

Determinations:

Review Request:

1. The Landlord consented to the Tenant's request for review. As such, the matter was heard de novo (anew).

L1 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 \$1,240.30. It is due on the 1st day of each month.
5. Based on the Monthly rent, the daily rent/compensation is \$40.78. This amount is calculated as follows: $\$1,240.30 \times 12$, divided by 365 days.
6. The Tenant has not made any payments since the application was filed.
7. The rent arrears owing to March 31, 2023 are \$19,913.77.
8. The Landlord incurred costs of \$259.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlord collected a rent deposit of \$1,183.64 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 \$31.31 is owing to the Tenant for the period from September 1, 2020 to March 30, 2023.

Relief from eviction:

11. 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 May 31, 2023 pursuant to subsection 83(1)(b) of the Act.
12. The arrears of rent are substantial, and the Tenant has made no payments to the Landlord in approximately 10 months. The Tenant testified that she fell into arrears of rent as her ODSP direct pay was removed and as such, she used the funds received for other expenses, including purchasing illegal drugs. The Tenant has resided in the rental unit for approximately 11 years.
13. In my view, I find it would be unfair to impose a repayment plan on the Landlord. The Tenant has had no change to their monthly income, but rather chose to use her funds towards other non-essential expenses. I am however mindful to the fact that this is a

longterm tenancy and as such, find it would not be unfair to delay termination of tenancy to May 31, 2023 to allow the Tenant some additional time to secure alternate housing.

It is ordered that:

1. The request to review order LTB-L-055620-22 issued on February 10, 2023 is granted. The order is cancelled and replaced with this order.
2. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
3. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$21,413.07 if the payment is made on or before April 30, 2023. See Schedule 1 for the calculation of the amount owing.

OR

- \$22,653.37 if the payment is made on or before May 31, 2023. See Schedule 1 for the calculation of the amount owing.
4. 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 31, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
 5. **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 31, 2023**
 6. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$18,940.92. 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.
 7. The Tenant shall also pay the Landlord compensation of \$40.78 per day for the use of the unit starting March 31, 2023 until the date the Tenant moves out of the unit.
 8. If the Tenant does not pay the Landlord the full amount owing on or before April 25, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 26, 2023 at 6.00% annually on the balance outstanding.
 9. If the unit is not vacated on or before May 31, 2023, then starting June 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 June 1, 2023.

April 14, 2023

Date Issued

Fabio Quattrociochi

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 1, 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 April 30, 2023

Rent Owing To April 30, 2023	\$21,154.07
Application Filing Fee	\$259.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord 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 Landlord owes 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	\$21,413.07

B. 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	\$22,394.37
Application Filing Fee	\$259.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord 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 Landlord owes 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	\$22,653.37

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

Rent Owing To Hearing Date	\$19,896.87
Application Filing Fee	\$259.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord 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	- \$1,183.64
Less the amount of the interest on the last month's rent deposit	- \$31.31

Less the amount the Landlord owes 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 Landlord	\$18,940.92
Plus daily compensation owing for each day of occupation starting March 31, 2023	\$40.78 (per day)