



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

**Citation:** Wu v Granja vivero, 2023 ONLTB 29928

**Date:** 2023-04-06 **File Number:**  
LTB-L-037689-22-RV

**In the matter of:** 3010, 159 WELLESLEY ST E TORONTO  
ON M4Y0H5

**Between:** Jiayao Wu Landlord

**And**

Rosa Angelica Granja vivero Tenant

**Review Order**

Jiayao Wu (the 'Landlord') applied for an order to terminate the tenancy and evict Rosa Angelica Granja vivero (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was resolved by order LTB-L-037689-22 issued on February 24, 2023.

On March 8, 2023, the Landlord requested a review of the order and that the order be stayed until the request to review the order is resolved. The Landlord alleged that they were not reasonably able to participate in the proceeding.

On March 10, 2023, interim order LTB-L-037689-22-RV-IN was issued, staying the order issued on February 24, 2023.

This application was heard by videoconference on March 30, 2023. Only the Landlord's Legal Representative, B. Altun, attended the hearing. As of 10:42 a.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the Board.

**Determinations:**

**The request**

1. The Landlord alleged that they were not reasonably able to participate in the original proceeding of February 13, 2023 which resulted in order LTB-L-037689-22 dismissing their application as abandoned.
2. In support of the request, the Landlord's Legal Representative stated that they did not receive the Notice of Hearing from the Board despite making an inquiry in December 2022.
3. The Board's records show that the Notice of Hearing was sent by email to the Landlord's Legal Representative. The notice was sent on December 28, 2022 to the email address contained in the Landlord's application.
4. The Landlord and Tenant Board Interpretation Guideline 8 states that "The LTB will only exercise its discretion to grant a review when it is satisfied the order contains a serious error, a serious error occurred in the proceeding or the requestor was not reasonably able to participate in the proceeding".
5. Based on the submissions in the request, although I am satisfied that the Notice of Hearing was sent to the Landlord's Legal Representative on December 28, 2022, the Landlord was not reasonably able to participate in the proceeding

### **The Application**

6. 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.
7. As of the hearing date, the Tenant was still in possession of the rental unit.
8. The lawful rent is \$1,900.00. It is due on the 1st day of each month.
9. Based on the Monthly rent, the daily rent/compensation is \$62.47. This amount is calculated as follows:  $\$1,900.00 \times 12$ , divided by 365 days.
10. The Tenant has not made any payments since the application was filed.
11. The rent arrears owing to March 31, 2023 are \$22,800.00.
12. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
13. The Landlord collected a rent deposit of \$1,900.00 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.
14. Interest on the rent deposit, in the amount of \$42.32 is owing to the Tenant for the period from November 1, 2021 to March 30, 2023.
15. I have considered all 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The Tenant has not paid any rent to the Landlord since April 2022.

**It is ordered that:**

1. The request to review order LTB-L-037689-22 issued on February 24, 2023, is granted. The order cannot be enforced.
2. The interim order issued on March 10, 2023, is cancelled, and replaced with this order.
3. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
4. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
  - \$24,886.00 if the payment is made on or before April 17, 2023. See Schedule 1 for the calculation of the amount owing.
5. 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 April 17, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
6. **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 April 17, 2023**
7. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$21,017.78. 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.
8. The Tenant shall also pay the Landlord compensation of \$62.47 per day for the use of the unit starting March 31, 2023 until the date the Tenant moves out of the unit.
9. If the Tenant does not pay the Landlord the full amount owing on or before April 17, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 18, 2023 at 6.00% annually on the balance outstanding.
10. If the unit is not vacated on or before April 17, 2023, then starting April 18, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
11. 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 April 18, 2023.

**April 6, 2023**

**Date Issued**

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Jitewa Edu

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 October 18, 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 April 17, 2023**

Rent Owing To April 30, 2023	\$24,700.00
Application Filing Fee	\$186.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$24,886.00</b>

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

Rent Owing To Hearing Date	\$22,774.10
Application Filing Fee	\$186.00
<b>Less</b> the amount of the last month's rent deposit	- \$1,900.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$42.32
<b>Total amount owing to the Landlord</b>	<b>\$21,017.78</b>
Plus daily compensation owing for each day of occupation starting March 31, 2023	\$62.47 (per day)