



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

**Citation:** Chen v Faminan, 2023 ONLTB 28378

**Date:** 2023-03-31

**File Number:** LTB-L-045980-22

**In the matter of:** 103, 18 HARDING BLVD  
RICHMOND HILL ON L4C0T3

**Between:** Su -Jen Hsu and Yi-Chia Chen

Landlords

### **And**

Lida Faminan

Tenant

Su-Jen Hsu and Yi-Chia Chen (the 'Landlords') applied for an order to terminate the tenancy and evict Lida Faminan (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

The Landlords also claimed charges related to NSF cheques.

This application was heard by videoconference on March 1, 2023.

Only the Landlords and the Landlords' legal representative, J. Gu, attended the hearing.

As of 10:00a.m., 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 is \$2,100.00. It is due on the 1st day of each month.

4. Based on the Monthly rent, the daily rent/compensation is \$69.04. This amount is calculated as follows: \$2,100.00 x 12, divided by 365 days.
5. The Tenant has paid \$600.00 to the Landlords since the application was filed.
6. The rent arrears owing to March 31, 2023 are \$28,450.00.
7. The Landlords are entitled to \$40.00 to reimburse the Landlord for administration charges and bank fees the Landlords incurred as a result of cheques given by or on behalf of the Tenant which was returned NSF.
8. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlords collected a rent deposit of \$2,100.00 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.
10. Interest on the rent deposit, in the amount of \$46.49 is owing to the Tenant for the period from October 5, 2020 to March 1, 2023.
11. The Landlords contacted the Tenant a number of times, and they attempted to arrange to meet with the Tenant to discuss the arrears. The Tenant did not come to the arranged meetings, and the Landlords said that the Tenant then blocked the Landlords' phone number. The Landlords also said that they have reached out by text, with no response. The Landlords are seeking a standard termination order.
12. 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 I find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. In particular, the arrears are substantial, and they are now approaching the limit of the Board's jurisdiction, the Landlords have attempted to discuss the arrears on a number of occasions, and the Tenant has been completely unresponsive. The Tenant is now blocking communication from the Landlords. The tenancy is no longer viable.

**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:**
  - \$28,676.00 if the payment is made on or before March 31, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

- \$30,776.00 if the payment is made on or before April 11, 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 April 11, 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 April 11, 2023.**
- 5. If the Tenant does not void the order, the Tenant shall pay to the Landlords \$24,498.55. 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 Landlords owe 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 \$69.04 per day for the use of the unit starting March 2, 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 April 11, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 12, 2023 at 5.00% 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 April 11, 2023, then starting April 12, 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 April 12, 2023.

2023 ONL TB 28378 (CanLII)

**March 31, 2023** \_\_\_\_\_ **Date Issued**

Nancy Morris

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 12, 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 March 31, 2023**

Rent Owing To March 31, 2023	\$29,050.00
Application Filing Fee	\$186.00
NSF Charges	\$40.00
<b>Less</b> the amount the Tenant paid to the Landlords since the application was filed	- \$600.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlords owe the Tenant for an{abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$28,676.00</b>

**B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before April 11, 2023**

Rent Owing To April 30, 2023	\$31,150.00
Application Filing Fee	\$186.00
NSF Charges	\$40.00
<b>Less</b> the amount the Tenant paid to the Landlords since the application was filed	- \$600.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlords owe the Tenant for an{abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$30,776.00</b>

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

Rent Owing To Hearing Date	\$27,019.04
Application Filing Fee	\$186.00
NSF Charges	\$40.00
<b>Less</b> the amount the Tenant paid to the Landlords since the application was filed	- \$600.00

2023 ONLTB 28378 (CanLII)

<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	- \$2,100.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$46.49
<b>Less</b> the amount the Landlords owe the Tenant for an {abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total amount owing to the Landlords</b>	<b>\$24,498.55</b>
Plus daily compensation owing for each day of occupation starting March 2, 2023	\$69.04 (per day)