



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** 1314939 Ontario Ltd. v Lavagesse, 2023 ONLTB 28809

**Date:** March 29, 2023

**File Number:** LTB-L-020199-22

**In the matter of:** 203, 130 COSBURN AVENUE  
EAST YORK, ON M4J2L7

<b>Between:</b>	1314939 Ontario Ltd.	Landlord
	<b>and</b>	
	Junior Francois Lavagesse	Tenant

1314939 Ontario Ltd. (the 'Landlord') applied in a L1 application for an order to terminate the tenancy and evict Junior Francois Lavagesse (the 'Tenant') because the Landlord claimed that the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on October 25, 2022 but unfortunately an order was not issued.

The Board scheduled a *de novo* (new) hearing, which was heard on March 24, 2024. The Landlord's legal representative Mark Ciobotaru attended the hearing on behalf of the Landlord. As of 9:43am (the hearing started at 9am), the Tenant was not present or represented although properly served with notice of the *de novo* hearing by the Board. There was no record that the Tenant had requested an adjournment or to reschedule prior to the hearing, so the hearing occurred with only the Landlord's evidence as allowed by section 7 of the *Statutory Powers Procedure Act*.

**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. When the L1 application was filed, and as of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful monthly rent was \$1,467.40 at the time the L1 application was filed. The lawful monthly rent increased to \$1,504.08 on February 1, 2023. The monthly rent is due on the first (1<sup>st</sup>) day of each month.
4. Based on the current rent, the daily rent/compensation is \$49.45. This amount is calculated as follows: \$1,504.08 x 12 months, divided by 365 days.

5. The Tenant paid \$11,514.80 to the Landlord between the time the L1 application was filed on April 7, 2022 and the March 24, 2023 hearing.
6. As of the hearing date, the current rent arrears owing (up to March 31, 2023) are \$7,632.16.
7. The Landlord incurred costs of \$186.00 for filing the L1 application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$1,450.00 from the Tenant on February 1, 2021 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. The Landlord owes interest on the last month's rent deposit between the date of collection (February 1, 2021) to the termination date in the N4 Notice of Termination (March 21, 2022).
10. The Landlord's legal representative submitted that numerous attempts had been made to reach out to the Tenant and to invite dialogue, a chance to resolve the issues, and to invite a repayment plan from the Tenant. Letters were sent to the Tenant before the last hearing in October, 2022, and recently another letter was sent on March 17, 2023. The Landlord never heard back from the Tenant.
11. The Landlord's legal representative did not know of any circumstances regarding the Tenant. Regarding the Landlord's circumstance – the arrears amount had doubled between the last hearing date and the new hearing; the Tenant had been in a state of arrears for nearly a year; and this was no longer a sustainable tenancy from the Landlord's perspective. The Landlord sought a standard eviction 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 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.

**It is ordered that:**

13. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.

***PAY AND STAY OPTION***

14. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
  - **\$7,818.16\*** if the payment is made on or before **March 31, 2023**. See Schedule 1 (chart A) for the calculation of the amount owing.

**OR**

- **\$9,322.24\*\*** if the payment is made after March 31, 2023 but on or before **April 9, 2023**. See Schedule 1 (chard B) for the calculation of the amount owing.

15. 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 9, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.

### ***PAY AND GO OPTION***

16. **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 9, 2023 (standard 11 days from the issuance date of this order).**
17. If the Tenant does not void this order, the Tenant shall pay to the Landlord **\$6,364.35\*\*\***. This amount includes rent arrears owing at the date of the hearing (rent up to March 31, 2023) and the cost of filing the application, less the last month's rent deposit and any interest owing on the deposit. See Schedule 1 (chart C) for the calculation of the amount owing.
18. The Tenant shall also pay the Landlord compensation of **\$49.45 per day** for the use of the unit **starting April 1, 2023** until the Tenant actually moves out of the rental unit or gets evicted.
19. If the Tenant does not pay the Landlord the full amount owing on or before April 9, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 10, 2023 onwards at 6.00% annually on the balance outstanding.
20. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
21. If the rental unit is not vacated on or before April 9, 2023, then starting April 10, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
22. 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 10, 2023.

**March 29, 2023**

**Date Issued**

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Michelle Tan

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 10, 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**

**PAY AND STAY OPTION****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	\$19,146.96
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$11,514.80
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$7,818.16*</b>

**B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made after March 31, 2023 but on or before April 9, 2023**

Rent Owing To April 30, 2023	\$20,651.04
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$11,514.80
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$9,322.24**</b>

**PAY AND GO OPTION****C. Amount the Tenant must pay if the tenancy is terminated**

Rent Owing To Hearing Date	\$19,146.96
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$11,514.80
<b>Less</b> the amount of the last month's rent deposit	- \$1,450.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$3.81
<b>Total amount owing to the Landlord</b>	<b>\$6,364.35***</b>
Plus daily compensation owing for each day of occupation starting April 1, 2023	<b>\$49.45 (per day)</b>