



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

**Citation:** Metcap Living Management Inc. v Bigirumwami, 2023 ONLTB 26243

**Date:** 2023-03-22

**File Number:** LTB-L-037323-22

**In the matter of:** 2301, 201 SHERBOURNE ST  
TORONTO ON M5A3X2

**Between:** Metcap Living Management Inc.

Landlord

**And**

Christian Bigirumwami and David Benjamin  
Dextre Hermoza

Tenants

Metcap Living Management Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Christian Bigirumwami and David Benjamin Dextre Hermoza (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on February 13, 2023.

The Landlord's Legal Representative Michelle Forrester and the Tenant David Benjamin Dextre Hermoza attended the hearing. The Tenant spoke with Tenant Duty Counsel prior to the hearing.

At the hearing, the parties consented to the following order:

**It is agreed by the parties that:**

1. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Nonpayment of Rent (N4 Notice). The Tenants 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 Tenants were still in possession of the rental unit.
3. The lawful rent is \$2,358.37. It is due on the 1st day of each month.

4. The rent arrears owing to February 28, 2023 are \$14,261.60. The Tenants made a payment shortly before the hearing of a further \$9,000.00 by regular cheque. This cheque had not cleared the bank at the time of the hearing and was not calculated in the payments made by the Tenants.
5. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
6. The Landlord collected a rent deposit of \$2,239.00 from the Tenants 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.
7. Interest on the rent deposit, in the amount of \$15.01 is owing to the Tenants for the period from January 1, 2022 to February 13, 2023.
8. The parties agreed to a standard order with an extension to February 28, 2023.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants void this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
  - \$14,447.60 if the payment is made on or before February 28, 2023. See Schedule 1 for the calculation of the amount owing. \*\* (less \$9,000.00 if the payment prior to the hearing is successfully deposited.)
3. The Tenants may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenants have paid the full amount owing as ordered plus any additional rent that became due after February 28, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.
4. **If the Tenants do not pay the amount required to void this order the Tenants must move out of the rental unit on or before February 28, 2023**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$10,843.24\*\* (less \$9,000.00 if the payment prior to the hearing is successfully deposited). 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 Tenants. See Schedule 1 for the calculation of the amount owing.
6. The Tenants shall also pay the Landlord compensation of \$77.54 per day for the use of the unit starting February 14, 2023 until the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before February 28, 2023, the Tenants will start to owe interest. This will be simple

interest calculated from March 1, 2023 at 5.00% annually on the balance outstanding.

8. If the unit is not vacated on or before February 28, 2023, then starting March 1, 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 March 1, 2023.

**March 22, 2023**

**Issued**

\_\_\_\_\_ **Date**  
Margo den Haan

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 September 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.

**Schedule 1  
SUMMARY OF CALCULATIONS**

**A. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before February 28, 2023**

Rent Owing To February 28, 2023	\$30,601.60
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$16,340.00**
<b>Total the Tenants must pay to continue the tenancy ** (less \$9,000.00 if the payment immediately preceding the hearing is successfully deposited)</b>	<b>\$14,447.60**</b>

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

Rent Owing To Hearing Date	\$29,251.25
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$16,340.00**
<b>Less</b> the amount of the last month's rent deposit	- \$2,239.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$15.01
<b>Total amount owing to the Landlord **** (less \$9,000.00 if the payment immediately preceding the hearing is successfully deposited)</b>	<b>\$10,843.24**</b>
Plus daily compensation owing for each day of occupation starting February 14, 2023	\$77.54 (per day)