



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

**Citation:** Haimour v Ajmal, 2023 ONLTB 25548

**Date:** 2023-03-15

**File Number:** LTB-L-037177-22

**In the matter of:** UPPER LEVEL, 3256 ESCADA DR MISSISSAUGA  
ON L5M7V5

**Between:** Reem Mohammad Abu Thiab Landlords  
Sabri Hashem Haimour

**And**

Mohammad Ajmal Tenant

Reem Mohammad Abu Thiab and Sabri Hashem Haimour (the 'Landlords') applied for an order to terminate the tenancy and evict Mohammad Ajmal (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

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

The second-named Landlord attended the hearing and was represented by Olivia Yue. The Tenant attended the hearing and was self-represented.

### **PRELIMINARY MATTERS**

1. At the beginning of the hearing, I raised a preliminary issue regarding the outstanding arrears claimed by the Landlord valued at \$35,750.00, which is above the Board's monetary jurisdiction of \$35,000.00 in accordance with section 207(1) of the *Residential Tenancies Act, 2006* (the 'Act'). The Landlord's legal representative informed the Board that the Landlord was willing to waive entitlement to the amount of arrears exceeding the monetary limit pursuant to s. 207(3) of the Act.

### **Determinations:**

2. 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.
3. As of the hearing date, the Tenant was still in possession of the rental unit.
4. The lawful rent is \$3,250.00. It is due on the 1st day of each month.
5. Based on the Monthly rent, the daily rent/compensation is \$106.85. This amount is calculated as follows: \$3,250.00 x 12, divided by 365 days.
6. The Tenant has not made any payments since the application was filed.
7. The rent arrears owing to January 31, 2023 are \$35,750.00.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. There is no last month's rent deposit.

Section 83 considerations

Tenant's evidence

10. The Tenant does not dispute the arrears claimed by the Landlord. He fell into arrears due to losses he incurred to a transportation business he operated when public health restrictions related to the COVID-19 pandemic came into effect.
11. He undertook efforts to re-establish his income stream by starting a new online business (which was unsuccessful due to supply chain problems in Europe), as well as making investments in Dubai, where some of his resources currently remain and are inaccessible to him until he can travel again. Elaborating further, the Tenant explained that he is restricted from travelling internationally as he is awaiting a final decision on his Canadian citizenship application.
12. Recently, he acquired employment as an Associate Publisher with a company named 'Best Virgin Media' whom he just completed training with. He is expected to receive his first paycheck in March 2023. The Tenant proposes that, in exchange for preserving the tenancy, he would begin making his monthly rent payments and, in a few months, would be a position to address the outstanding arrears.
13. In response to questions about the amount of time needed to vacate the unit should the Board decide to grant the Landlord's application, the Tenant asks for an extension of time until June 30, 2023 as his son continues to be enrolled in a local high school and his daughter is scheduled for possible surgery, both of which are obligations he needs to prioritize.

Landlord's evidence

14. The Landlord testified that he made multiple attempts to enter into payment arrangements with the Tenant to address the arrears, none of which the Tenant complied with. Given the magnitude of arrears, any further delay is prejudicial to him as he is using his own financial resources to maintain the unit which he can no longer recover using the Board's processes given that the arrears have surpassed the Board's monetary jurisdiction.
15. The Landlord seeks an order terminating the tenancy as, in his view, based on his direct experience with the Tenant, he feels the Tenant has no intention of complying with a payment arrangement of any kind arranged by the Board or otherwise.

Analysis

16. 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.
17. Acknowledging that the Tenant experienced a disruption in his income due to the pandemic (which led him to fall into arrears), and that he recently secured employment that could enable him to meet his rent payment obligations, he has chosen not to pay his rent but to prioritize other interests (i.e., such as establishing an online business, his Canadian citizenship application, and investments overseas). As such, I am satisfied that this tenancy is non-viable and continuing it any further would be unduly prejudicial to the Landlord.

**It is ordered that:**

1. The tenancy between the Landlord 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 Landlord or to the LTB in trust:**
  - \$40,147.65 if the payment is made on or before March 26, 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 March 26, 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 March 26, 2023.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$34,957.55. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
7. The Tenant shall also pay the Landlord compensation of \$106.85 per day for the use of the unit starting February 2, 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 March 26, 2023, the Tenant will start to owe interest. This will be simple interest calculated from March 27, 2023 at 5.00% annually on the balance outstanding.
9. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
10. If the unit is not vacated on or before March 26, 2023, then starting March 27, 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 March 27, 2023.

2023 ONLTB 25548 (CanLII)

**March 15, 2023** \_\_\_\_\_ **Date Issued**

Emile Ramlochan

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 27, 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 March 26, 2023**

Rent Owing To April 9, 2023	\$39,961.65
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlord owes 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>\$40,147.65</b>

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

Rent Owing To Hearing Date	\$34,957.55
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
<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	- \$
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$0.00
<b>Less</b> the amount the Landlord owes 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 Landlord</b>	<b>\$35,143.55</b>
Plus daily compensation owing for each day of occupation starting February 2, 2023 (limited by the monetary jurisdiction of the Board to \$35,000.00).	\$106.85 (per day)