



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** Homestead Land Holdings Limited v Shirpanjeh, 2023 ONLTB 24129

**Date:** 2023-03-13

**File Number:** LTB-L-017602-22

**In the matter of:** 1615, 140 ERSKINE AVE  
TORONTO ON M4P1Z2

**Between:** Homestead Land Holdings Limited Landlord

**And**

Gholam Shirpanjeh Tenant

Homestead Land Holdings Limited (the 'Landlord') applied for an order to terminate the tenancy and evict Gholam Shirpanjeh (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on October 11, 2022. The Landlord's legal representative, Andrew Hyland, and the Tenant attended the hearing.

### **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. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$1,285.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$42.25. This amount is calculated as follows: \$1,285.00 x 12, divided by 365 days.
5. The Tenant has paid \$5,120.00 to the Landlord since the application was filed.
6. The rent arrears owing to October 31, 2022 are \$10,254.31.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

8. The Landlord collected a rent deposit of \$1,271.02 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.
9. Interest on the rent deposit, in the amount of \$10.57 is owing to the Tenant for the period from February 1, 2022 to October 11, 2022.
10. The Tenant has lived in the residential complex for some 28 years. The Tenant had been evicted by the Sheriff from a different rental unit and then the Tenant paid the Landlord the outstanding arrears at the time and then was moved into this rental unit in 2013. The Tenant explained that they fell behind because they were stuck in Cuba with family and had a friend living in the unit that they thought was paying. The Tenant just recently returned to work in May of 2022 and proposed that they continue the tenancy on the basis that they pay the monthly rent. The Tenant's employment is commission based. The Tenant further indicated that on average with their employment income, they make on average \$2,000.00 per month and they have to pay insurance, gas and groceries in addition to the monthly rent. Sometimes the Tenant makes \$1,700.00 in commission and sometimes they make \$2,500.00. After considering their expenses, the Tenant then offered to pay "a couple hundred dollars" in addition to the monthly rent in order to preserve the tenancy.
11. The Landlord was opposed to the Tenant only paying the monthly rent and had no faith that the Tenant would make any payments towards the arrears. The Landlord's representative had a conversation with the Tenant in May of 2022 regarding the arrears and promises were made by the Tenant to catch up. However, the tenant has not paid money against the arrears and the arrears have continued to climb since the application was filed in March.
12. Although I acknowledge that the Tenant has had varying circumstances with income loss and being stuck in Cuba for an extended period of time, I do not believe the tenancy is viable on the basis that the Tenants income barely supports being able to pay the monthly rent each month, let alone pay for any additional living expenses.
13. However, I do find it appropriate under the circumstances to provide the Tenant with a brief postponement of the eviction if they are unable to pay. The Tenant has also had the benefit of additional time to pay since the hearing in October.
14. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to postpone the eviction until March 31, 2023 pursuant to subsection 83(1)(b) of the Act.

**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:**

- \$16,865.31 if the payment is made on or before March 31, 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 31, 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 31, 2023**
  5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$8,338.47. 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.
  6. The Tenant shall also pay the Landlord compensation of \$42.25 per day for the use of the unit starting October 12, 2022 until the date the Tenant moves out of the unit.
  7. If the Tenant does not pay the Landlord the full amount owing on or before March 24, 2023, the Tenant will start to owe interest. This will be simple interest calculated from March 25, 2023 at 5.00% annually on the balance outstanding.
  8. The Landlord 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 March 31, 2023, then starting April 1, 2023, the Landlord 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 Landlord on or after April 1, 2023.

**March 13, 2023**

**Date Issued**

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Terri van Huisstede  
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 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.

\*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 31, 2023**

Rent Owing To March 31, 2023	\$21,799.31
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	- \$5,120.00
<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>\$16,865.31</b>

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

Rent Owing To Hearing Date	\$14,554.06
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	- \$5,120.00
<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	- \$1,271.02
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$10.57
<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>\$8,338.47</b>
Plus daily compensation owing for each day of occupation starting October 12, 2022	\$42.25 (per day)