



## **Order under Subsection 87(1) Residential Tenancies Act, 2006**

**Citation:** IMH POOL VI-A-LP v Messenger, 2023 ONLTB 23783

**Date:** 2023-03-07

**File Number:** LTB-L-031204-22

**In the matter of:** 101, 150 DOWLING AVE  
TORONTO ON M6K3A8

**Between:** IMH POOL VI-A-LP Landlord

**And**

Ryan Darren Messenger Tenant

IMH POOL VI-A-LP (the 'Landlord') applied for an order requiring Ryan Darren Messenger (the 'Tenant') to pay the rent that the Tenant owes.

This application was heard by videoconference on January 19, 2023.

Only the Landlord's representative, Emma Bennett attended the hearing.

As of 2:52 p.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.

The Landlord's representative told the Board that the Tenant was previously employed by the Landlord as the Resident Manager (Superintendent). The Tenant's employment was terminated on December 14, 2021 and was not charged rent for the seven-day period that followed.

The notice served on the Tenant on which this application is based does not accurately set out the rent due. As a result, the notice of termination does not meet the mandatory requirements contained in section 59(2) of the Act and is invalid.

As the Board has no jurisdiction to evict a tenant based on an invalid notice, the application for an eviction order for non-payment of rent must be denied. As a result, the Landlord elected to seek an order for arrears only.

### **Determinations:**

1. As of the hearing date, the Tenant was still in possession of the rental unit.

2. The Tenant did not pay the total rent they were required to pay for the period from April 1, 2022 to January 31, 2023.
3. The lawful rent is \$1,505.61. It is due on the 1st day of each month.

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Landlord and Tenant Board

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Commission de la location immobilière

4. The Tenant has not made any payments since the application was filed.
5. The rent arrears owing to January 31, 2023 are \$19,985.79
6. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

**It is ordered that:**

1. The Tenant shall pay to the Landlord \$20,171.79. This amount includes rent arrears owing up to January 31, 2023 and the cost of the application.
2. If the Tenant does not pay the Landlord the full amount owing on or before March 18, 2023, the Tenant will start to owe interest. This will be simple interest calculated from March 19, 2023 at 5.00% annually on the balance outstanding.

**March 7, 2023**

**Date Issued**

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**Natalie James**

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.

