



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

**Citation:** Jafari v Maraghechi, 2023 ONLTB 23704

**Date:** 2023-03-06

**File Number:** LTB-L-040931-22

**In the matter of:** 1005, 208 QUEENS QUAY W Toronto  
ON M5J2Y5

**Between:** Amir Jafari Landlord

**And**

Shirin Maraghechi Tenant

Amir Jafari (the 'Landlord') applied for an order to terminate the tenancy and evict Shirin Maraghechi (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on February 27, 2023.

The Landlord, the Landlord's Legal Representative, P. Javadi, and the Tenant's Legal Representative, C. Nastas, attended the hearing. As of 10:58 a.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the Board.

### **Preliminary Issues:**

The Tenant's Legal Representative stated that pursuant to the Real Property Limitations Act, the Landlord was precluded from seeking arrears beyond six years and the Notice to End your Tenancy Early For Non-payment of Rent (N4) served by the Landlord contains arrears from 2014.

The Tenant's request for a dismissal of the application on this ground was denied as section 59 of the Residential Tenancies Act, 2006 ('the Act') which covers non-payment of rent does not place a limitation on how far back a Landlord can seek the collection of the arrears. In addition, section 3(4) of the Act provides that If a provision of the Act conflicts with a provision of another Act, other than the *Human Rights Code*, the provision of the Act applies. The Real Property Limitations Act does not apply in this circumstance.

The Tenant's Legal Representative subsequently requested an adjournment because the Tenant had an appointment with a counselling and psychotherapy service and provided an email reminder from the doctor dated February 14, 2023. The Landlord opposed the request stating that they received the Notice of Hearing from the Board and forwarded a copy to the Tenant on January 25, 2023. They also stated that the Tenant has been aware of the hearing and this request is a delay tactic.

Section 183 of the *Residential Tenancies Act, 2006* ('the Act') provides that the Board shall adopt the most expeditious method of determining the questions arising in a proceeding that affords to all persons directly affected by the proceeding an adequate opportunity to know the issues and be heard on the matter. The Tenant's request was denied because not only was she aware of this hearing weeks prior, but she could also attend the hearing after the appointment. In addition, no evidence was provided to show the date on which the Tenant obtained the doctor's appointment and why it could not be rescheduled. The application was stood down for the Tenant's Legal Representative to contact her to attend the hearing and at 10:58 a.m. when the hearing proceeded, she was yet to be reached. A reasonable person requesting an adjournment would be on standby for any communication from their representative.

**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 \$1,500.00.
4. Based on the Monthly rent, the daily rent/compensation is \$49.32. This amount is calculated as follows: \$1,500.00 x 12, divided by 365 days.
5. The Tenant has paid \$12,000.00 to the Landlord since the application was filed.
6. The rent arrears owing to February 28, 2023 are \$29,000.00.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. There is no last month's rent deposit.

Relief from Eviction

9. The Tenant's Legal Representative stated that the Tenant disputes the arrears because even though she paid the rent in cash on several occasions, she was not given a receipt by the Landlord. The Tenant is waiting for eight years of banking information to substantiate her claim.

10. The Tenant was in a car accident in 2021 and has suffered from anxiety and depression as a result. The Tenant has resided in the unit since 2014 and is employed parttime.
11. The Landlord testified that the parties were close friends but the relationship deteriorated and even though the Tenant paid by cash because her cheques bounced, she did not make steady payments. The Landlord further stated that although he did not provide receipts, he kept written records of the Tenant's payments and in June 2022, prepared a spreadsheet which he sent to her.
12. The Tenant aware of the issues in this case, having received the notice of termination in June 2022, failed to provide any evidence to demonstrate that she made payments to the Landlord for which she was not credited.
13. I have considered all 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 April 14, 2023 pursuant to subsection 83(1)(b) of the Act. Additional time is given to the Tenant to either secure alternative accommodation or pay the outstanding amount.

**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:**
  - \$30,686.00 if the payment is made on or before March 31, 2023. See Schedule 1 for the calculation of the amount owing.
- OR**
- \$32,186.00 if the payment is made on or before April 14, 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 April 14, 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 April 14, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$29,017.64. 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 the Landlord compensation of \$49.32 per day for the use of the unit starting February 28, 2023 until the date the Tenant moves out of the unit.

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7. If the Tenant does not pay the Landlord the full amount owing on or before March 17, 2023, the Tenant will start to owe interest. This will be simple interest calculated from March 18, 2023 at 5.00% annually on the balance outstanding.
8. If the unit is not vacated on or before April 14, 2023, then starting April 15, 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 April 15, 2023.

**March 6, 2023**

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\_\_\_\_\_ **Date Issued**

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 15, 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.

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**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	\$42,500.00
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$12,000.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$30,686.00</b>

**B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before April 14, 2023**

Rent Owing To April 30, 2023	\$44,000.00
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$12,000.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$32,186.00</b>

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

Rent Owing To Hearing Date	\$40,831.64
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$12,000.00
<b>Total amount owing to the Landlord</b>	<b>\$29,017.64</b>
Plus daily compensation owing for each day of occupation starting February 28, 2023	\$49.32 (per day)