



Order under Section 21.2 of the  
**Statutory Powers Procedure Act** and  
the **Residential Tenancies Act, 2006**

**Citation:** Morguard NAR Canada Limited Partnership v Conka, 2023 ONLTB 23667

**Date:** 2023-02-28

**File Number:** LTB-L-001619-21-BIR-IN

**In the matter of:** 1904, 47 THORNCLIFFE PARK DR  
EAST YORK ON M4H1J5

**Between:** Morguard NAR Canada Limited Partnership Landlord

**And**

Frantisek Conka and Hana Puskova Tenant

Morguard NAR Canada Limited Partnership (the 'Landlord') applied for an order to terminate the tenancy and evict Frantisek Conka and Hana Puskova (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes. The application was resolved by order LTB-L-001619-21, which was issued on September 22, 2022.

**It is determined that:**

1. On September 29, 2022, the Landlord filed a request to amend the order the following reasons:

There appears to be a clerical error in the Order issued on September 22, 2022. Paragraph 2, Page 2 under it is ordered that reads: "The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust: \$1,662.78 if the payment is made on or before October 3, 2022. See Schedule 1 for the calculation of the amount owing. However, the amount of \$1,662.78 is the rent arrears and filing fee that was owing to June 30, 2022 as set out in the L1/L9 updated sheet provided to the Board in the disclosure. The lawful monthly rent owing for the months from July, 2022 to October, 2022 have not been included in this amount. The amount to be paid on or before October 3, 2022 should be \$7,156.22.

Paragraph 5, Page 2 under it is ordered reads: " If the Tenants do not void the order, the Tenants shall pay to the Landlord \$297.62". This amount should be recalculated to use the correct per day amount of \$45.15.

Paragraph 6, Page 2 under it is ordered that reads: "The Tenants shall also pay the Landlord compensation of \$44.62 per day for the use of the unit starting June 22, 2022 until the date the Tenant moves out of the unit." This amount is incorrect and should be \$45.15 as set out in Paragraph 4, Page 1 of the Order under determinations.

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Paragraph 7, Page 2 under it is ordered that reads: "If the Tenants do not pay the Landlord the full amount owing on or before September 19, 2022, the Tenants will start to owe interest." This date should be October 3, 2022.

Accordingly, we respectfully request that the Order be Amended to correct the following:

Paragraph 2, Page 2 under it is ordered should read: "The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust: \$7,156.22 if the payment is made on or before October 3, 2022. See Schedule 1 for the calculation of the amount owing. Also, Part A of the Schedule 1 Summary of Calculations requires recalculation to set out the correct amount to \$7,156.22 in the row total the Tenant must pay to continue the Tenancy. Paragraph 5, Page 2 under it is ordered should be recalculated using the correct per day compensation of \$45.15. Paragraph 6, Page 2 under it is ordered should read: "The Tenants shall also pay the Landlord compensation of \$45.15 per day for the use of the unit starting June 22, 2022 until the date the Tenant moves out of the unit." Also, Part B, Schedule 1, Summary of Calculations, the per day amount should be \$45.15. Paragraph 7, Page 2 under it is ordered should read: "If the Tenants do not pay the Landlord the full amount owing on or before October 3, 2022, the Tenants will start to owe interest.

2. The Board may have seriously erred by making the above-referenced findings and rulings in the order.
3. In order to preserve the rights of the Tenant until the review is resolved, order LTB-L001619-21, issued on September 22, 2022, should be stayed. An order cannot be enforced while it is stayed.

**It is ordered that:**

1. Board staff are directed to schedule, on an expedited basis, a Board review of order LTB-L001619-21, issued on September 22, 2022.

2. Order LTB-L-001619-21, issued on September 22, 2022, is stayed until otherwise ordered.
3. The parties are directed to be prepared for a rehearing of the application if the Board review is granted.
4. The Landlord's request to amend order LTB-L-001619-21, issued on September 22, 2022, is deferred pending disposition of the Board review of the order.

**February 28, 2023**

**Date Issued**

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Sean Henry

Member, Landlord and Tenant Board

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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.