



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** Hoque kazi v Dewan, 2023 ONLTB 19845

**Date:** 2023-02-17

**File Number:** LTB-L-035690-22

**In the matter of:** BASEMENT UNIT, 43 LANARK CIRCLE  
BRAMPTON ON L6X5L5

**Between:** Elena Gromova Landlords  
Tariqul Hoque kazi

**And**

Muhammad moeen Dewan Tenants  
Tasneem Fatima

Elena Gromova and Tariqul Hoque kazi (the 'Landlord') applied for an order to terminate the tenancy and evict Muhammad moeen Dewan and Tasneem Fatima (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on February 2, 2023. The Landlords, the Landlords' Legal Representative, P. Balatidis, and the Tenant, Muhammad moeen Dewan, attended the hearing.

**Determinations:**

1. The Landlords served the Tenants with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenants 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 Tenants were still in possession of the rental unit.
3. The lawful rent is \$1,600.00.
4. Based on the Monthly rent, the daily rent/compensation is \$52.60. This amount is calculated as follows: \$1,600.00 x 12, divided by 365 days.
5. The Tenants have paid \$3,650.00 to the Landlords since the application was filed.
6. The Landlord's attempts at negotiating a repayment agreement were unsuccessful as the Tenants promised and failed to make payments.
7. The rent arrears owing to February 28, 2023 are \$11,900.00.
8. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

9. The Landlords collected a rent deposit of \$1,600.00 from the Tenants and this deposit is still being held by the Landlords. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
10. Interest on the rent deposit, in the amount of \$22.82 is owing to the Tenants for the period from January 1, 2022 to February 2, 2023.

#### Relief from Eviction

11. The Tenant testified that they fell into arrears because he lost his job in April 2022 and even though he got a new job in May 2022, he had to quit in July 2022. He subsequently developed health issues and lost a deposit for a new home in the summer.
12. The Tenant requested an opportunity to continue the tenancy by paying the outstanding arrears from the proceeds of a project he completed. However, as the Tenants have not paid any rent since September 2022, I am not satisfied that they can pay the outstanding arrears given the chance.
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 March 10, 2023 pursuant to subsection 83(1)(b) of the Act. Additional time is given to the Tenants to either secure alternative accommodation or pay the outstanding amount.

#### It is ordered that:

1. The tenancy between the Landlords and the Tenants is terminated unless the Tenants void this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlords or to the LTB in trust:**
  - \$12,086.00 if the payment is made on or before February 28, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

  - \$13,686.00 if the payment is made on or before March 10, 2023. See Schedule 1 for the calculation of the amount owing.
3. The Tenants may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenants have paid the full amount owing as ordered plus any additional rent that became due after March 10, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.
4. **If the Tenants do not pay the amount required to void this order the Tenants must move out of the rental unit on or before March 10, 2023**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$8,968.38. 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 Landlords owes on the rent deposit are

deducted from the amount owing by the Tenants. See Schedule 1 for the calculation of the amount owing.

6. The Tenants shall also pay the Landlords compensation of \$52.60 per day for the use of the unit starting February 3, 2023 until the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlords the full amount owing on or before February 28, 2023, the Tenants will start to owe interest. This will be simple interest calculated from March 1, 2023 at 5.00% annually on the balance outstanding.
8. If the unit is not vacated on or before March 10, 2023, then starting March 11, 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 Landlords on or after March 11, 2023.

**February 17, 2023**  
**Date Issued**

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Jitewa Edu  
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 11, 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.

**Schedule 1**  
**SUMMARY OF CALCULATIONS**

**A. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before February 28, 2023**

Rent Owing To February 28, 2023	\$15,550.00
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenants paid to the Landlords since the application was filed	- \$3,650.00
<b>Total the Tenants must pay to continue the tenancy</b>	<b>\$12,086.00</b>

**B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before March 10, 2023**

Rent Owing To March 31, 2023	\$17,150.00
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenants paid to the Landlords since the application was filed	- \$3,650.00
<b>Total the Tenants must pay to continue the tenancy</b>	<b>\$13,686.00</b>

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

Rent Owing To Hearing Date	\$14,055.20
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenants paid to the Landlords since the application was filed	- \$3,650.00
<b>Less</b> the amount of the last month's rent deposit	- \$1,600.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$22.82
<b>Total amount owing to the Landlords</b>	<b>\$8,968.38</b>
Plus daily compensation owing for each day of occupation starting February 3, 2023	\$52.60 (per day)