



**Order under Subsection 74(14)
Residential Tenancies Act, 2006**

Citation: 2827 Bathurst Ltd v Burns, 2023 ONLTB 19905

Date: 2023-02-16

File Number: LTB-L-001848-23-VO

In the matter of: 1-2825 Bathurst Street
North York, ON M6B 3A4

Between: 2827 Bathurst Ltd Landlord

And

Fumi Fujita Tenants
Ryan Burns

2023 ONLTB 19905 (CanLII)

Fumi Fujita and Ryan Burns (the 'Tenant') filed a motion to set aside order LTB-L-001848-23 because, before the eviction order was enforced, the Tenants paid the amount required under subsection 74(11) of the *Residential Tenancies Act, 2006* (the 'Act') to void the order.

This motion was heard by videoconference on January 23, 2023.

The Landlord's Legal Representative and the Tenant Ryan Burns attended the hearing.

Determinations:

1. The Tenants have not previously made a motion under subsection 74(11) of the Act to set aside an eviction order during this tenancy.
2. Before the Tenant filed this motion, the Tenant paid a total of \$11,144.00 to the Landlord and the LTB. The amount paid represents all the rent that is in arrears under the tenancy agreement, all additional rent that would have been due under the tenancy agreement up to January 31, 2023, all NSF and related administration fees the Landlord incurred and the filing fee for this application. This payment is at least the amount required under subsection 74(11) to void the eviction order.
3. The Landlord paid \$330.00 to the Court Enforcement Office (Sheriff) for the purpose of enforcing the eviction and this amount is non-refundable. The Landlord is also seeking their parking and mileage costs for a total of \$19.47.
4. The Tenant has not reimbursed the Landlord for the enforcement costs the Landlord incurred and will be directed to pay \$349.47 into the Board to be paid out to the Landlord by February 23, 2023. While the Tenant agreed to pay this amount by February 10, 2023, the deadline is extended due to the date of the order.

It is ordered that:



5. Order LTB-L-001848-23 is void and cannot be enforced by the Landlord if the condition set out in paragraph 6 of this order is met.
6. The Tenant shall pay \$349.47 to the LTB on or before February 23, 2023. This amount represents the non-refundable enforcement costs the Landlord incurred.
7. If the Tenant pays the amount set out in paragraph 6 on or before February 23, 2023, then an employee of the LTB will issue a notice acknowledging that the eviction order related to arrears is void.
8. If the Tenant does not pay the amount set out in paragraph 6 on or before February 23, 2023, then an employee of the LTB will issue a notice acknowledging that the eviction order related to arrears is not void and the eviction order becomes enforceable.
9. The amount of \$6,322.40 paid into the LTB by the Tenant shall be paid out to the Landlord.

February 16, 2023
Date Issued

Jagger Benham
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.

Notes:

- The Tenant cannot make another motion under subsection 74(11) of the Act to set aside an eviction order during the period of the Tenant's tenancy agreement with the Landlord.
- When the LTB directs payment-out, the Canadian Imperial Bank of Commerce will issue a cheque to the appropriate party(ies) named in this order. The cheque will be in the amount directed plus any interest accrued up to the date of this order.

