



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** IMH Pool XII LP v Ahakhanian, 2023 ONLTB 19843

**Date:** 2023-02-13

**File Number:** LTB-L-036002-22

**In the matter of:** 1710, 25 FISHERVILLE RD  
NORTH YORK ON M2R3B7

**Between:** IMH Pool XII LP Landlord

**And**

Melaniia Ahakhanian Tenants  
Olena Samoilenko

IMH Pool XII LP (the 'Landlord') applied for an order to terminate the tenancy and evict Melaniia Ahakhanian and Olena Samoilenko (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 Landlord's Legal Representative, M. Ciobotaru, attended the hearing. As of 2:56 p.m., the Tenants were not present or represented at the hearing although properly served with notice of this hearing by the LTB.

### **Determinations:**

1. The Landlord 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 \$2,249.00.
4. Based on the Monthly rent, the daily rent/compensation is \$73.94. This amount is calculated as follows: \$2,249.00 x 12, divided by 365 days.
5. The Tenants have paid \$7,899.00 to the Landlord since the application was filed.
6. On January 24, 2023, the Landlord sent a letter to the Tenants about the forthcoming hearing and the necessity of a repayment agreement. The Landlord's attempts at negotiating a repayment agreement were unsuccessful.
7. The rent arrears owing to February 28, 2023 are \$12,342.00.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

9. The Landlord collected a rent deposit of \$2,249.00 from the Tenants and this deposit is still being held by the Landlord. 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 \$32.07 is owing to the Tenants for the period from January 1, 2022 to February 2, 2023.
11. 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 13, 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 Landlord 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 Landlord or to the LTB in trust:**
  - \$12,528.00 if the payment is made on or before February 28, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

  - \$14,777.00 if the payment is made on or before March 13, 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 13, 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 13, 2023**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$8,145.81. 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 Landlord owes on the rent deposit are deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.
6. The Tenants shall also pay the Landlord compensation of \$73.94 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 Landlord the full amount owing on or before February 24, 2023, the Tenants will start to owe interest. This will be simple interest calculated from February 25, 2023 at 5.00% annually on the balance outstanding.
8. If the unit is not vacated on or before March 13, 2023, then starting March 14, 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 March 14, 2023.

**February 13, 2023**

**Date Issued**

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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 14, 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	\$20,241.00
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$7,899.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$12,528.00</b>

**B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before March 13, 2023**

Rent Owing To March 31, 2023	\$22,490.00
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$7,899.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$14,777.00</b>

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

Rent Owing To Hearing Date	\$18,139.87
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$7,899.00
<b>Less</b> the amount of the last month's rent deposit	- \$2,249.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$32.07
<b>Total amount owing to the Landlord</b>	<b>\$8,145.81</b>
Plus daily compensation owing for each day of occupation starting February 3, 2023	\$73.94 (per day)