



## **Order under Section 69 and Utilizing Section 78 Residential Tenancies Act, 2006**

**Citation:** Toronto Community Housing Corporation v Kavula, 2023 ONLTB 19336

**Date:** 2023-02-08

**File Number:** LTB-L-035556-22

**In the matter of:** 38 PELHAM PARK GDNS  
TORONTO ON M6N1A7

**Between:** Toronto Community Housing Corporation Landlord

**And**

Bijou Baelenge Kavula

Tenant

Toronto Community Housing Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Bijou Baelenge Kavula (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, Rahel Abera, and the Tenant attended the hearing.

### **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 as of July 1, 2022 is \$1,371.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$45.07. This amount is calculated as follows: \$1,371.00 x 12, divided by 365 days.
5. The Tenant has paid \$2,100.00 to the Landlord since the application was filed.
6. The parties agreed that the rent arrears owing to February 28, 2023 are \$17,099.00.

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.
9. The monthly rent increased as a result of an assessment done by the Landlord based on the Tenants household income because the rent is based on rent geared to income.

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10. Although the Tenant disputes the amount of rent charged because her circumstances have changed, the Board lacks the jurisdiction to review or assess the monthly rent as outlined in section 203 of the *Residential Tenancies Act, 2006* (the 'Act').
11. The Tenant had a car accident on or about November of 2021 and have had issues struggling with mental illness and injury as a result. Also, their son, who was contributing to the household income has since moved out of the unit.
12. The Landlord was not opposed to a payment plan, however, the Landlord wanted the Tenant to pay \$360.00 in addition to the rent every month. The Tenant indicated that she can only afford \$200.00 per month in addition to the rent. The Tenant indicated an intention to file a review of their monthly rent based on their circumstances and the Landlord indicated that she would put the Tenant in touch with the person responsible for the review.
13. After taking submissions from both the Landlord and the Tenant I find that an amortized payment plan is appropriate under the circumstances. The Landlord and the Tenant agreed that for a period of 2 months the Tenant would pay \$200.00 in addition to the monthly rent and then the arrears payment would increase to \$360.00. The following order is based on the payments proposed by the Tenant.
14. I have considered all of 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 grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.

**It is ordered that:**

1. The Tenant shall pay to the Landlord \$17, 285.00 for arrears of rent up to February 28 2023 and costs.
2. The Tenant shall pay to the Landlord the amount set out in paragraph 1 in accordance with the following schedule:
  - a) \$1,371.00 on or before February 19, 2023;
  - b) \$200.00 on or before April 20, 2023; and

- c) \$200.00 on or before May 20, 2023; and
  - d) \$360.00 on or before the 20<sup>th</sup> day of each month starting on June 20, 2023 and continuing for a period of 43 consecutive months up to and including to November 20, 2027; and
  - e) \$393.00 on or before December 20, 2027; and
3. The Tenant shall also pay to the Landlord new rent on time and in full as it comes due and owing on or by the first day of each month for the period March 1, 2023 to December 31, 2027, or until the arrears are paid in full, whichever date is earliest.

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4. If the Tenant fails to make any one of the payments in accordance with this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenant to the Landlord pursuant to paragraph 1 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenant, apply to the LTB within 30 days of the Tenant's breach pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenant and requiring that the Tenant pay any new arrears, NSF fees and related charges that became owing after February 28, 2023.

**February 8, 2023**

**Date Issued**

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Terri van Huisstede  
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.