



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** Alsaman v Eltahtawi, 2023 ONLTB 18509

**Date:** 2023-02-02

**File Number:** LTB-L-041778-22

**In the matter of:** BASEMENT, 564 FARWELL CRES  
MISSISSAUGA ON L5R2A5

**Between:** Jihad Alsaman Landlord

**And**

Noha Eltahtawi Tenant

Jihad Alsaman (the 'Landlord') applied for an order to terminate the tenancy and evict Noha Eltahtawi (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 31, 2023. Only the Landlord attended the hearing. As of 1:38pm, the Tenant was not present or represented at the hearing although properly served with notice of the hearing by the Board. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

At 1:42pm, after the matter had finished, the Tenant spoke up from the gallery to inquire about the hearing. The device that the Tenant had signed in on showed up on the participant screen prior to the 1:00pm hearing start time but they would not respond when prompted to unmute or to call back into the hearing. It wasn't until after the hearing finished that the Tenant came off mute to introduce themselves.

**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 is \$1,700.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$55.89. This amount is calculated as follows: \$1,700.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to January 31, 2023 are \$27,200.00.
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 Landlord indicated that the Tenant had resided in the rental unit in the basement during the time that the Landlords lease holding tenant, Lama Mouazen, was residing in the property. Lama Mouazen vacated the rental unit on December 1, 2021 and left the Tenant behind in the unit and the Tenant has not paid anything to the Landlord.
10. When the Landlord was asked to provide submissions on how they determined the monthly rent amount, the Landlord responded that \$1,700.00 is what the Tenant had paid to their lease holding tenant prior to Ms. Mouazen vacating. Without evidence to the contrary, I am satisfied that the monthly rent charged to the Tenant is \$1,700.00.
11. Although the Landlord has not entered into a written tenancy agreement with the Tenant, when the Landlord failed to apply to the Board regarding the unauthorized occupancy within the 60 days required under subsection 100(2) of the *Residential Tenancies Act, 2006* (the 'Act') the unauthorized occupant became a Tenant pursuant to the Act.
12. The Landlord testified that the Tenant is residing in the basement of their single family dwelling and that they are unable to rent out the main portion of the house because it would be in contravention of the City Bylaw. The basement unit that the Tenant is residing in is not intended to be a rental unit, but despite efforts to try to communicate with the Tenant, they refuse to respond to the Landlord regarding leaving or paying any rent.
13. Given the quantum of arrears and the Tenants lack of payments to the Landlord, and based on the Tenant not attending the hearing to make submissions regarding their circumstances to consider, I do not find that any additional relief would be warranted under the circumstances.
14. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenant and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenant is terminated unless the Tenant voids this order.
2. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
  - \$29,086.00 if the payment is made on or before February 13, 2023. See Schedule 1 for the calculation of the amount owing.
3. The Tenant may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenant has paid the full amount owing as ordered plus any additional rent that became due after February 13, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
4. **If the Tenant does not pay the amount required to void this order the Tenant must move out of the rental unit on or before February 13, 2023**

5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$27,386.00. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlord compensation of \$55.89 per day for the use of the unit starting February 1, 2023 until the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlord the full amount owing on or before February 13, 2023, the Tenant will start to owe interest. This will be simple interest calculated from February 14, 2023 at 5.00% annually on the balance outstanding.
8. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.
9. If the unit is not vacated on or before February 13, 2023, then starting February 14, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
10. 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 February 14, 2023.

**February 2, 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.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on August 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.

\*Note: When the Board directs payment-out, the Canadian Imperial Bank of Commerce will issue a cheque to the appropriate party named in this notice. The cheque will be in the amount directed plus any interest accrued up to the date of the notice

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

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

Rent Owing To February 28, 2023	\$28,900.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$29,086.00</b>

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

Rent Owing To Hearing Date	\$27,200.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount of the last month's rent deposit	- \$
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total amount owing to the Landlord</b>	<b>\$27,386.00</b>
Plus daily compensation owing for each day of occupation starting February 1, 2023	\$55.89 (per day)