



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** Kiani v Miyazawa, 2023 ONLTB 17081

**Date:** 2023-02-02

**File Number:** LTB-L-030738-22

**In the matter of:** Basement, 116 YORK DOWNS DR  
NORTH YORK ON M3H2G7

**Between:** Zahra Kiani Landlord

**And**

Tsuneaki Miyazawa Tenant

Zahra Kiani (the 'Landlord') applied for an order to terminate the tenancy and evict Tsuneaki Miyazawa (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 19, 2023. The Landlord, the Landlord's Legal Representative, M. Makhtari, and the Tenant attended the hearing.

The application is amended to reflect the accurate monthly rent as \$468.00.

### **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 \$468.00.
4. Based on the Monthly rent, the daily rent/compensation is \$15.39. This amount is calculated as follows: \$468.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.

### Section 82

6. The Tenant raised four issues pursuant to section 82 of the Act but the only one considered by the Board was the 'Alex Iwo situation'. This is because the application was amended to show the accurate monthly rent; neither the Landlord nor the police were informed about a burglary in May 2022; and the claim about harassment from 2010 was not relayed to the Landlord.

7. The Tenant testified that the 'Alex Iwo situation' was about the Landlord asking him to pay the monthly rent to the Landlord's friend while the Landlord was away. The Tenant felt it was an illegal request because the Landlord informed him at the last minute.
8. The Tenant is not entitled to an abatement of rent as the Landlord's request was not illegal.
9. The rent arrears owing to January 31, 2023 are \$4,212.00.
10. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
11. There is no last month's rent deposit.

#### Relief from Eviction

12. The Tenant testified that he fell into arrears because he was sick but his health has since improved. The Tenant is currently unemployed and has no source of income since his Ontario Works benefit was cancelled.
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 2, 2023 pursuant to subsection 83(1)(b) of the Act. Additional time given to the Tenant to either secure alternative accommodation or pay the outstanding amount.

#### 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:**
  - \$4,866.00 if the payment is made on or before February 28, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

  - \$5,334.00 if the payment is made on or before March 2, 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 March 2, 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 March 2, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$4,222.41. 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 \$15.39 per day for the use of the unit starting January 20, 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 2.00% 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 March 2, 2023, then starting March 3, 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 March 3, 2023.

**February 2, 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 3, 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 Tenant 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	\$4,680.00
Application Filing Fee	\$186.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$4,866.00</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 2, 2023**

Rent Owing To March 31, 2023	\$5,148.00
Application Filing Fee	\$186.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$5,334.00</b>

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

Rent Owing To Hearing Date	\$4,036.41
Application Filing Fee	\$186.00
<b>Total amount owing to the Landlord</b>	<b>\$4,222.41</b>
Plus daily compensation owing for each day of occupation starting January 20, 2023	\$15.39 (per day)