



**Order under Section 69  
Residential Tenancies Act, 2006**

**Citation:** Cheng v Cheng, 2023 ONLTB 17534

**Date:** 2023-01-27

**File Number:** LTB-L-063520-22

**In the matter of:** 11 Vitanna Road  
Markham, ON L6C 0J4

**Between:** Kelvin Cheung Landlords  
Sze Wai Cheng

**And**

Giovanni Nequia Tenants  
Shawn Cheng

Kelvin Cheung and Sze Wai Cheng (the 'Landlords') applied for an order to terminate the tenancy and evict Giovanni Nequia and Shawn Cheng (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on January 16, 2023.

Only the Landlord Sze Wai Cheng attended the hearing.

As of 1:58 pm, the Tenants were not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlords' evidence.

**Determinations:**

1. The Landlords 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. The Tenants were in possession of the rental unit on the date the application was filed.
3. The Tenants vacated the rental unit on February 28, 2022. Rent arrears are calculated up to the date the Tenant vacated the unit.
4. The lawful rent is \$3,200.00. It was due on the 1st day of each month.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to February 28, 2022 are \$44,217.73. The Landlords' claim in this application exceeds the Board's jurisdictional limit as set out in s. 207(1) of the *Residential Tenancies Act, 2006* (the 'Act') of \$35,000.00, that being the limit of the Small Claims Court. The Landlords acceded to the jurisdiction of the Board and waived any claim above this limitation.

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7. The Landlords 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.

**It is ordered that:**

9. The tenancy between the Landlords and the Tenants is terminated as of February 28, 2022, the date the Tenants moved out of the rental unit
10. The Tenants shall pay to the Landlord \*\$35,186.00. This amount includes rent arrears owing up to the date the Tenant moved out of the rental unit and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
11. If the Tenant does not pay the Landlord the full amount owing on or before February 7, 2023, the Tenant will start to owe interest. This will be simple interest calculated from February 8, 2023 at 5.00% annually on the balance outstanding.

**January 27, 2023**

**Date Issued**

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Jagger Benham

Member, Landlord and Tenant Board

15 Grosvenor St, 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.

**Schedule 1  
SUMMARY OF CALCULATIONS**

**A. Amount the Tenant must pay as the tenancy is terminated**

Rent Owing To Move Out Date	\$44,217.73
Application Filing Fee	\$186.00
<b>Total amount owing to the Landlord</b> (being the Board's jurisdictional limit under s. 207(1) of the <i>Residential Tenancies Act, 2006</i> )	<b>*\$35,186.00</b>