



**Order under Section 69 and 87
Residential Tenancies Act, 2006**

File Number: LTB-L-011516-22

In the matter of: 610 VIA MATTINO WAY
NEPEAN ON K2J6B9

Between: Jiehua Huang Landlords
Lifeng Yao

And

Pierre Guitard Tenant

Jiehua Huang and Lifeng Yao (the 'Landlord') applied for an order to terminate the tenancy and evict Pierre Guitard (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes (L1 Application); and because the Tenant has been persistently late in paying the Tenant's rent; (L2 Application). The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on January 10, 2023. Only the Landlords and the Landlords' legal representative, Rong Wei Yu, attended the hearing. As of 11:59am, the Tenant was 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 Landlord's evidence.

Determinations:

L1 Application – Non-Payment of Rent

1. The Landlord served the Tenant with a 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. The N4 Notice contained an error in that it did not provide the Tenant with the required 14 days notice since the Landlord served the Tenant by mail on January 24, 2022 and documents sent by mail are not considered served until 5 days thereafter. Effectively, the N4 Notice of termination was served on January 29, 2022 which only provided 12 days notice to the Tenant.
3. At the hearing, the Landlord requested the consent of the Board to amend their L1 application to pursue and order for arrears only, rather than termination of the tenancy on this basis since the Landlord also had an L2 application to consider for persistent late payment of rent.

4. Since the application was undisputed, I see no reason to deny the Landlords amendment as requested.
5. As of the hearing date, the Tenant was still in possession of the rental unit.
6. The lawful rent is \$1,821.60. It is due on the 1st day of each Month.
7. Based on the Monthly rent, the daily rent/compensation is \$59.89. This amount is calculated as follows: $\$1,821.60 \times 12$, divided by 365 days.
8. The Tenant has paid \$10,703.20 to the Landlord since the application was filed.
9. The rent arrears owing to the hearing date of January 10, 2023 are \$14,733.40.
11. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
14. The Landlord collected a rent deposit of \$1,800.00 from the Tenant 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.
15. Interest on the rent deposit, in the amount of \$126.39 is owing to the Tenant for the period from April 20, 2018 to January 10, 2023.

L2 Application – Persistent Late Payment of Rent

16. The Tenant has persistently failed to pay the rent on the date it was due. The rent is due on the 1st day of each month. The rent has been paid late 12 times in the past 12 months according to the N8 Notice of Termination. After the N8 Notice was served on the Tenant on January 29, 2022, the Tenant continued to pay rent late, with the exception of the April 2022 rent which was paid on the first day of the month.
17. On this basis, and based on the Landlords undisputed evidence, I find that the Tenant has been persistently late in paying the monthly rent as it comes due.

Relief from Eviction

18. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

It is ordered that:

1. Pursuant to the L2 Application, the tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before January 29, 2023.
2. As of the date of the hearing, the Tenant owes the Landlord \$12,992.91. See Schedule 1 for the calculation of the amount owing.

3. The Tenant shall also pay the Landlord daily rent/compensation of \$59.89 per day for the use of the unit starting January 11, 2023 to the date the Tenant moves out of the unit.
4. If the Tenant does not pay the Landlord the full amount owing on or before January 29, 2023, the Tenant will start to owe interest. This will be simple interest calculated from January 30, 2023 at 5.00% annually on the balance outstanding.
5. If the unit is not vacated on or before January 29, 2023, then starting January 30, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
6. 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 January 30, 2023.

January 18, 2023

Date Issued

15 Grosvenor Street, Ground Floor
Toronto ON M7A 2G6

Terri van Huisstede

Member, Landlord and Tenant Board

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 of the Tenant expires on July 30, 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 LTB 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 as the tenancy is terminated

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|--|-----------------------|
| Rent Owing To January 10, 2023 | \$ 25,436.60 |
| Application Filing Fee | \$ 186.00 |
| NSF Charges | \$ 0.00 |
| Less the amount the Tenant paid to the Landlord since the application was filed | - \$ 10,703.20 |
| Less the amount the Tenant paid into the LTB since the application was filed | - \$ 0.00 |
| Less the amount of the last month's rent deposit | - \$ 1,800.00 |
| Less the amount of the interest on the last month's rent deposit | - \$ 126.39 |
| Less the amount the Landlord owes the Tenant for an {abatement/rebate} | - \$ 0.00 |
| Less the amount of the credit that the Tenant is entitled to | - \$ 0.00 |
| Total amount owing to the Landlord | \$ 12,992.91 |
| Plus daily compensation owing for each day of occupation starting January 11, 2023: | \$ 59.89 (per day) |