



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

Citation: 6965083 Canada Inc v Luz, 2023 ONLTB 15605

Date: 2023-01-17

File Number: LTB-L-011604-22

In the matter of: 1411, 15 MARTHA EATON WAY
TORONTO ON M6M5B5

Between: 6965083 Canada Inc Landlord

And

Eliana Luz Tenant

6965083 Canada Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Eliana Luz (the 'Tenant') because the Tenant has been persistently late in paying the Tenant's rent. 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 Landlord's legal representative, Faith McGregor, attended the hearing. As of 11:44am, 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:

1. The Tenant was in possession of the rental unit on the date the application was filed.
2. On January 28, 2022, the Landlord gave the Tenant an N8 notice of termination for persistent late payment of rent by sending it regular mail to the Tenant at the rental unit address. The N8 Notice is deemed served 5 days thereafter on February 2, 2023.
3. Based on the uncontested evidence of the Landlord, I find that 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. According to the N8 Notice, the rent has been paid late 11 times in the past 12 months between February of 2021 to January of 2022.
4. Despite the notice, the Tenant continued to pay their rent late for each month between February 2022 and January 2023. While it appears as though the payment dates have improved, there is no evidence before me that the Tenant would be able to pay the monthly rent on time for me to consider a conditional order to preserve the tenancy.
5. The Landlord further requested daily compensation in their application. Daily compensation is based on a daily rent amount paid by the Tenant. It was the Landlord's evidence that the current monthly rent is \$1,327.40 as of January 1, 2023. The Landlord

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sought daily compensation starting February 1, 2023 on the basis that the Tenant was current with their monthly rent for the period ending January 31, 2023. Since the Tenant is current with their rent, I find it appropriate to grant the Landlords request.

6. Based on the Monthly rent, the daily compensation is \$43.64. This amount is calculated as follows: \$1,327.40 x 12, divided by 365 days.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$1,279.68 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$15.78 is owing to the Tenant for the period from January 1, 2022 to January 10, 2023.
9. In accordance with subsection 106(10) of the *Residential Tenancies Act, 2006*, (the 'Act') the last month's rent deposit shall be applied to the rent for the last month of the tenancy.
10. 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 postpone the eviction until January 31, 2023 pursuant to subsection 83(1)(b) of the Act.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before January 31, 2023.
2. If the unit is not vacated on or before January 31, 2023, then starting February 1, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. 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 1, 2023.
4. The Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.
5. The Tenant shall also pay the Landlord daily rent/compensation of \$43.64 per day for the use of the unit starting February 1, 2023 to the date the Tenant moves out of the unit.
6. If the Tenant does not pay the Landlord the full amount owing on or before January 31, 2023, the Tenant will start to owe interest. This will be simple interest calculated from February 1, 2023 at 5.00% annually on the balance outstanding.

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.

January 17, 2023

Date Issued

Terri van Huisstede

Member, Landlord and Tenant Board

In accordance with section 81 of the Act, the part of this order relating to the eviction of the Tenant expires on August 1, 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.