



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

**Citation:** IMH POOL XIV LP v Silva, 2023 ONLTB 14865

**Date:** 2023-01-09

**File Number:** LTB-L-023671-22

**In the matter of:** 3, 3480 HAVENWOOD DR  
MISSISSAUGA ON L4X2M8

**Between:** IMH POOL XIV LP Landlord

**And**

Anabelle D. Silva Tenant  
Loreto Z. Silva  
Mark Silva

IMH POOL XIV LP (the 'Landlord') applied for an order to terminate the tenancy and evict Anabelle D. Silva, Loreto zZ. Silva and Mark Silva (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

The Landlord also claimed charges related to NSF cheques.

This application was heard by videoconference on January 4, 2023.

The Landlord did not attend the hearing but was represented by Sofia Enriquez.

As of 11:44 a.m., 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 Landlord's evidence.

**Determinations:**

1. The Landlord 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. As of the hearing date, the Tenants were still in possession of the rental unit.
3. The lawful rent is \$1,757.53. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$57.78. This amount is calculated as follows: \$1,757.53 x 12, divided by 365 days.
5. The Tenants have paid \$14,675.82 to the Landlord since the application was filed.
6. The rent arrears owing to January 31, 2023 are \$2,669.11.

7. The Landlord is entitled to \$20.00 to reimburse the Landlord for administration charges and \$5.00 for bank fees the Landlord incurred as a result of 1 cheque given by or on behalf of the Tenants which was returned NSF.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlord collected a rent deposit of \$1,611.25 from the Tenants 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.
10. Interest on the rent deposit, in the amount of \$19.78 is owing to the Tenants for the period from January 1, 2022 to January 4, 2023.
11. 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 Tenants is terminated unless the Tenants voids this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
  - \$2,880.11 if the payment is made on or before January 20, 2023. See Schedule 1 for the calculation of the amount owing.
3. The Tenants may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenants have paid the full amount owing as ordered plus any additional rent that became due after January 20, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.
4. **If the Tenants do not pay the amount required to void this order the Tenants must move out of the rental unit on or before January 20, 2023**
5. As of the date of the hearing, the amount of the rent deposit and interest the Landlord owes on the rent deposit exceeds the arrears of rent, compensation and the cost of filing the application and unpaid NSF charges the Landlord is entitled to by \$277.33. See Schedule 1 for the calculation of the amount owing. However, the Landlord is authorized to deduct from the amount owing to the Tenants \$57.78 per day for compensation for the use of the unit starting January 5, 2023 until the date the Tenants moves out of the unit.
6. The Landlord or the Tenants shall pay to the other any sum of money that is owed as a result of this order.
7. If the unit is not vacated on or before January 20, 2023, then starting January 21, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.

8. 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 21, 2023.

**January 9, 2023**

**Date Issued**

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Emile Ramlochan  
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 July 21, 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 Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before January 20, 2023**

Rent Owing To January 31, 2023	\$17,344.93
Application Filing Fee	\$186.00
NSF Charges	\$25.00
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$14,675.82
<b>Less</b> the amount the Tenants paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenants for an {abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenants is entitled to	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$2,880.11</b>

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

Rent Owing To Hearing Date	\$15,818.52
Application Filing Fee	\$186.00
NSF Charges	\$25.00
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$14,675.82
<b>Less</b> the amount the Tenants paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount of the last month's rent deposit	- \$1,611.25
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$19.78
<b>Less</b> the amount the Landlord owes the Tenants for an {abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenants is entitled to	- \$0.00
<b>Total amount owing to the Landlord</b>	<b>\$(277.33)</b>
Plus daily compensation owing for each day of occupation starting January 5, 2023	\$57.78 (per day)