



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** Liu v De leon, 2022 ONLTB 14541

**Date:** 2022-12-21

**File Number:** LTB-L-040406-22

**In the matter of:** 22 BLAKLEY AVE  
YORK ON M6N3Y5

**Between:** Yuan Liu Landlord

**And**

Mildred De Leon Tenant

Yuan Liu (the 'Landlord') applied for an order to terminate the tenancy and evict Mildred De Leon (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on December 13, 2022.

The Landlord, the Landlord's Legal Representative, David Ciobotaru, and the Tenant attended the hearing.

The Tenant spoke with Duty Counsel prior to the hearing.

### Determinations:

1. It should be noted that after the Landlord' evidence was presented, the Tenant requested an adjournment because she has been on extensive sick leave and will be entering into a consumer proposal; this request was denied as it should have been requested prior to evidence being given. The matter proceeded on its merits.
2. 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.
3. As of the hearing date, the Tenant was still in possession of the rental unit.
4. The lawful rent is \$3,339.60. It is due on the 1st day of each month.
5. Based on the Monthly rent, the daily rent/compensation is \$109.80. This amount is calculated as follows: \$3,339.60 x 12, divided by 365 days.
6. The Tenant has not made any payments since the application was filed.
7. The rent arrears owing to December 31, 2022 are \$16,127.20.

8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. There is no last month's rent deposit.
10. The Tenant testified that she does not dispute the amount owing based on rent charged for the full house but she originally rented only the basement portion for \$1,500.00 per month and always intended on moving back to only that part. She does not feel she should be responsible for the rent for the entire house. The Tenant would like to move back into the basement and include the arrears in her bankruptcy/proposal so the Landlord can get some money paid to him by the trustee. If she has to vacate, the Tenant requires 3 months to come up with a first and last for rent elsewhere.
11. The Landlord testified that in May 2020, the Tenant agreed to rent the entire house, which included the shed in the back yard; she has been paying the \$3,300.00 for the entire house until December 2021, at which time the arrears started to accrue. There was no agreement for the Tenant to take over only the basement again
12. The Landlord's Legal Representative submitted that the Landlord is seeking a voidable order for December 31, 2022 to keep the quantum below the Board's jurisdiction on \$35,000.00.
13. 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. The Tenant is unable to pay the monthly rent for the full house and did not present any evidence showing she was entitled to pay a lower rent than what is indicated in the application; further, there was no evidence presented supporting her entitlement to only be paying a lower rent or that she responsible for a lower amount. As there is no last month rent deposit, and the Tenant admits she is unable to pay the full rent, it would be far too prejudicial to the Landlord to allow the Tenant to stay longer than the 11-day standard voidable order time. With respect to the Landlord's Legal Representative's submission about the monetary jurisdiction of the Board, please refer to the second part of paragraph 2 below.

**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:**
  - \$33,011.20 if the payment is made on or before December 31, 2022. See Schedule 1 for the calculation of the amount owing.

**OR**

  - \$36,350.80 if the payment is made on or before January 3, 2023. See Schedule 1 for the calculation of the amount owing. This amount exceeds the monetary

jurisdiction of the Board. This is an amount that the Tenant can choose to pay if they choose not to vacate the rental unit. The Board is not ordering this amount to be paid. This amount is optional and only required if the Tenants elect to remain in the rental unit. Therefore, the Board is not ordering this amount to be paid and is not ordering an amount that exceeds the limit.

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 January 3, 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 January 3, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$31,099.00. 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 \$109.80 per day for the use of the unit starting December 14, 2022 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 January 1, 2023, the Tenant will start to owe interest. This will be simple interest calculated from January 2, 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 January 3, 2023, then starting January 4, 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 January 4, 2023.

**December 21, 2022**  
**Date Issued**

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 Diane Wade  
 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 4, 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 December 31, 2022**

Rent Owing To December 31, 2022	\$32,825.20
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$33,011.20</b>

**B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before January 3, 2023**

Rent Owing To January 31, 2023	\$36,164.80
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$36,350.80</b>

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

Rent Owing To Hearing Date	\$30,913.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount of the last month's rent deposit	- \$
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$0.00
<b>Less</b> the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00

<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total amount owing to the Landlord</b>	<b>\$31,099.00</b>
Plus daily compensation owing for each day of occupation starting December 14, 2022	\$109.80 (per day)