



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** Nath v El sadig, 2022 ONLTB 10391

**Date:** 2022-12-01

**File Number:** LTB-L-017368-22

**In the matter of:** 1208, 20 Mississauga valley blvd  
Mississauga ON L5A3S1

**Between:** Ravi Nath Landlord

**And**

Nageeb El sadig Tenant

Ravi Nath (the 'Landlord') applied for an order to terminate the tenancy and evict Nageeb El sadig (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on October 12, 2022.

The Landlord, the Landlord's representative, Reginald Bent and the Tenant attended the hearing.

### **Preliminary Issue:**

1. In order to use the Board's time and the parties time wisely, I brought forward a preliminary issue I noted when reviewing the file.
2. The Landlord has claimed rent arrears in the amount of \$41,100.00. This amount is well in excess of the Board's monetary jurisdiction of \$35,000.00.
3. The Landlord testified that he is aware of the jurisdictional issue with the amount of arrears noted and indicated that he would pursue this application with the Board, the Landlord waives the excess amount of \$6,100.00 and cannot seek resolution for this amount in any other court of competent jurisdiction or through the Board.
4. The Tenant attempted to raise section 82 issues at the hearing however, the Tenant has not served a copy of the section 82 issues with the Landlord or the Board 7 days in advance of the hearing date as set out in Rule 19.4 of the Board's guidelines. In addition, the Tenant has filed his own T2 and T6 applications with the Board. The denial does not prejudice the Tenant in any form as he has not been precluded from filing his own applications to be addressed by the Board.

### **Determinations:**

Tenant's request for adjournment denied

1. At the start of the hearing the Tenant requested an adjournment to find legal representation and there are maintenance issues. The adjournment request was denied because the Tenant has not made any effort to find representation since he received the Notice of Hearing and the maintenance issues have been brought up in another application. In addition, the arrears of rent are high and an adjournment would pose prejudice to the Landlord as the arrears are over the Boards monetary jurisdiction.

#### L1 Application

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 \$1,800.00. It is due on the 1st day of each month.
5. Based on the Monthly rent, the daily rent/compensation is \$59.18. This amount is calculated as follows: \$1,800.00 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 October 31, 2022 are \$41,100.00, however, the Board is only authorized to order the Tenant to pay the maximum of its monetary jurisdiction of \$35,000.00.
8. The Landlord incurred costs of \$186.00 for filing the application and is normally entitled to reimbursement of those costs, however having exceeded the Board's monetary jurisdiction of \$35,000.00 the cost of the filing fee will therefore not be awarded.
9. The Landlord collected a rent deposit of \$3,600.00 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.
10. Interest on the rent deposit, in the amount of \$280.29 is owing to the Tenant for the period from February 16, 2017 to October 12, 2022.
11. The Landlord did attempt to discuss the arrears of rent with the Tenant however, the Tenant did not believe he had to pay the monthly rent or the arrears due to maintenance issues in the rental unit.
12. The Tenant did not dispute the amount of arrears. He has attempted to pay the rent, however he indicated that the e-transfer sent to the Landlord had bounced back. The Tenant did not have any evidence to support his payment being sent to the Landlord. I find that the Tenant has not paid the rent nor has he provided evidentiary support to show that he has attempted to pay the rent.

#### Relief from Eviction

13. The Tenant testified that he is not employed and he is on disability. In addition, he is a single father of four children and would be financially impacted should he have to find a new place to live. Additionally, the maintenance issues and his health should warrant delay or a denial of eviction. The Tenant raised the following issues, he has not had a bathroom with running water, has not had heat or ac for four years but did not provide details with respect to the maintenance issues and did not provide submissions on the specific dates, notice to the Landlord or the impact on him with respect to the maintenance issues. When asked, the Tenant testified that the rental unit is a three-bedroom unit in a condominium building.
14. Based on the evidence before me, I am not satisfied that the Tenant's maintenance issues rise to a breach that would warrant delaying or denying eviction. The Tenant has not provided details with respect to the maintenance issues and did not provide submissions on the specific dates, notice to the Landlord or the impact on him with respect to the maintenance issues.
15. 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 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:**
  - As outlined above, the Tenant owes the Landlord is \$43,263.54 if the payment is made on or before December 12, 2022. 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. This amount is only required if the Tenant elects to remain in the rental unit.
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 December 13, 2022 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 December 12, 2022**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$35,000.00. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.

6. The Tenant shall also pay the Landlord compensation of \$59.18 per day for the use of the unit starting October 13, 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 December 12, 2022, the Tenant will start to owe interest. This will be simple interest calculated from December 13, 2022 at 4.00% annually on the balance outstanding.
8. If the unit is not vacated on or before December 12, 2022, then starting December 13, 2022, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
9. 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 December 13, 2022.

**December 1, 2022**  
**Date Issued**

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Camille Clyne  
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 May 29, 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 12, 2022**

Rent Owing To November 30, 2022	\$43,077.54
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>Total the Tenant must pay to continue the tenancy</b>	<b>\$35,000.00(Board Monetary Jurisdiction)</b>

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

Rent Owing To Hearing Date	\$40,187.70
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 of the last month's rent deposit	- \$3,600.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$280.29
<b>Total amount owing to the Landlord</b>	<b>\$35,000.00(Board Monetary Jurisdiction)</b>
Plus daily compensation owing for each day of occupation starting October 13, 2022	\$59.18 (per day)