



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

**Citation:** IMH POOL IV LP v Digiovannantonio, 2022 ONLTB 13207

**Date:** 2022-11-30

**File Number:** LTB-L-018345-22

**In the matter of:** 204, 555 THE WEST MALL  
ETOBICOKE ON M9C1G8

**Between:** IMH POOL IV LP Landlord

**And**

Nina Digiovannantonio Tenant

IMH POOL IV LP (the 'Landlord') applied for an order to terminate the tenancy and evict Nina Digiovannantonio (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on October 11, 2022.

The Landlord's representative Halima Channiwala and the Tenant attended the hearing.

**Determinations:**

1. 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.
2. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$1,934.84. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$63.61. This amount is calculated as follows: \$1,934.84 x 12, divided by 365 days.
5. The Tenant has paid \$7,906.44 to the Landlord since the application was filed.
6. The rent arrears owing to October 31, 2022 are \$6,802.44.
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 \$1,455.79 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.
9. Interest on the rent deposit, in the amount of \$157.21 is owing to the Tenant for the period from July 13, 2015 to October 11, 2022.

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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 February 28, 2023 pursuant to subsection 83(1)(b) of the Act.
11. The Tenant testified that she has difficulty paying the rent arrears because she has been working part-time at the shoe store and earning between \$200 to \$300 weekly. The Tenant testified that she receives Ontario works of about \$470.00 monthly. The Tenant claim that she has agreed to go on Trusteeship and has been approved to receive funds to pay off her rent arrears.
12. The Landlord rejected the Tenant's request for a payment plan because it would take longer to pay and failed to respond to any of his inquiries and payment plans before today's hearing.
13. On balance, postponing the eviction until February 28, 2023, pursuant to subsection 83(1)(b), is appropriate as it allows the Tenant to pay the rent arrears in a shorter period, as requested by the Landlord.
14. Any prejudice to the Landlord will be alleviated by a requirement to pay the rent arrears in accordance with the payment schedule and future rent on time, failing which the Landlord can apply without notice to the Tenant for an ex parte order terminating the tenancy.

**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:**
  - \$8,923.28 if the payment is made on or before November 30, 2022. See Schedule 1 for the calculation of the amount owing.

**OR**

  - \$10,858.12 if the payment is made on or before December 31, 2022. See Schedule 1 for the calculation of the amount owing.

**OR**

  - \$12,792.96 if the payment is made on or before January 31, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

  - \$14,727.80 if the payment is made on or before February 28, 2023. See Schedule 1 for the calculation of the amount owing.
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 February 28, 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 February 28, 2023**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlord \$4,140.31. 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 \$63.61 per day for the use of the unit starting October 12, 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 11, 2022, the Tenant will start to owe interest. This will be simple interest calculated from December 12, 2022 at 2.00% annually on the balance outstanding.
8. If the unit is not vacated on or before February 28, 2023, then starting March 1, 2023, 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 March 1, 2023.

**November 30, 2022**  
**Date Issued**

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Percy Laryea  
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 September 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.

\*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 Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before November 30, 2022**

Rent Owing To November 30, 2022	\$16,643.72
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	- \$7,906.44
<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	- \$
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$8,923.28</b>

**B. 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	\$18,578.56
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	- \$7,906.44
<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>\$10,858.12</b>

**C. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before January 31, 2023**

Rent Owing To January 31, 2023	\$20,513.40
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	- \$7,906.44
<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>\$12,792.96</b>
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**D. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before February 28, 2023**

Rent Owing To February 28, 2023	\$22,448.24
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	- \$7,906.44
<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>\$14,727.80</b>

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

Rent Owing To Hearing Date	\$13,473.75
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	- \$7,906.44
<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	- \$1,455.79
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$157.21
<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	- \$
<b>Total amount owing to the Landlord</b>	<b>\$4,140.31</b>
Plus daily compensation owing for each day of occupation starting October 12, 2022	\$63.61 (per day)

