



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

**Citation:** Macijauskas v Green, 2022 ONLTB 8768

**Date:** 2022-11-03

**File Number:** LTB-L-000639-21

**In the matter of:** 3219, 30 Shore Breeze Drive  
Toronto ON M8V0J1

**Between:** Agile Storyk-Macijauskas, Edward Macijauskas Landlord

**And**

Chidugam John Green Tenant

Agile Storyk-Macijauskas, Edward Macijauskas (the 'Landlord') applied for an order to terminate the tenancy and evict Chidugam John Green (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 July 12, 2022. The Landlord, The Landlord's Representative George Brown and the Tenant attended the hearing.

**Determinations:**

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. Therefore, the tenancy is terminated effective November 14, 2022, the Tenant will be required to pay the Landlord daily compensation for use of the rental unit up to the date the Tenant moves out, less any amounts already paid.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On September 23, 2021, the Landlord gave the Tenant an N8 notice of termination deemed served on September 28, 2021. The notice of termination contains the following allegations: persistent late and partial payments of rent, the chronology identified time periods from January 2020 to September 2021, representing approximately 21 months of rental payment history.
4. The Tenant has persistently failed to pay the rent on the date it was due. The rent is due on the first day of each month. On review of the last 12 month period as contained in the N8 notice, the rent had been paid late 10 times.

5. The Tenant was required to pay the Landlord \$16,396.06 in daily compensation for use and occupation of the rental unit for the period from to July 12, 2022.
6. Based on the Monthly rent, the daily compensation is \$73.20. This amount is calculated as follows: \$2,226.40 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 \$2,200.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$69.59 is owing to the Tenant for the period from September 23, 2019 to November 14, 2022.
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. The Landlord submitted that he is frustrated with the Tenant's payment history of being short on his monthly rent amounts and persistently paying late. Based on his own personal financial circumstances, he can no longer maintain the costs of the rental property given the Tenant's late and partial payments. It was further submitted that the Tenant has violated a previous order HOL-12152-21 and as of the time of the hearing the Tenant owed the Landlord \$19,118.00.
11. The Tenant did not dispute that he has been persistently late in his payments, this was largely due to the conditions the pandemic created and impact on his self employment income. Furthermore, the Tenant did not dispute that he breached the conditions specified in order HOL-12152-2, he submitted that he will be relying on grants and loans to pay off the existing rent arrears to the Landlord, and that he is now fully employed with an after tax monthly income of \$3,500.00. The Tenant's self employment income is variable in nature based on contracts secured and is paid to him in installments based on completion status. The Tenant stated that he would require 2-3 months to vacate the unit if eviction was granted.
12. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. Based on the submissions of the parties, given the large quantum of arrears, and the Landlord having proven on a balance of probabilities the grounds for termination of the tenancy based on the persistently late payment of rent, it would be highly prejudicial to the Landlord if the tenancy was to continue. Given the timing of when this order is issued, I have taken into consideration the Tenant's submission for relief in terms of delay from eviction.

**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 November 14, 2022.
2. If the unit is not vacated on or before November 14, 2022, then starting November 15, 2022, 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 November 15, 2022.
4. The Tenant shall pay to the Landlords \$14,126.47\* (less any amounts paid to the Landlord after this application was filed on June 21, 2022). This amount represents the rent owing up to July 12, 2022, less the rent deposit and interest the Landlords owe on the rent deposit.
5. The Tenant shall also pay the Landlord compensation of \$73.20 per day for the use of the unit starting July 13, 2022 until the date the Tenant moves out of the unit.
6. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
7. The total amount the Tenant owes the Landlord is \$14,312.47.
8. If the Tenant does not pay the Landlord the full amount owing on or before November 14, 2022, the Tenant will start to owe interest. This will be simple interest calculated from November 15, 2022 at 4.00% annually on the balance outstanding.

**November 3, 2022**  
**Date Issued**

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Alicia Johnson  
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 of the Tenant expires on May 15, 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.