



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

Citation: Starlight Blackstar Opco Ltd. v Da costa, 2022 ONLTB 9489

Date: 2022-10-25

File Number: LTB-L-041354-22

In the matter of: 909, 120 RAGLAN AVE
TORONTO ON M6C2L4

Between: Starlight Blackstar Opco Ltd. Landlord

And

Bryan Da Costa, Tenantss
Fabricio Da silva

Starlight Blackstar Opco Ltd. (the 'Landlord') applied for an order to terminate the tenancy and evict Bryan Da costa, Fabricio Da silva (the 'Tenants') because the Tenants did not pay the rent that the Tenants owes.

The Landlord also claimed charges related to NSF cheques.

This application was heard by videoconference on October 17, 2022.

Only the Landlord attended the hearing. The Tenants was not present or represented at the hearing although properly served with notice of this hearing by the LTB as per the Board's mailout list dated September 12, 2022 that confirms a Notice was mailed to each Tenant. None of that mail was returned by Canada Post as undelivered. The Landlord also provided L1/L9 update sheet to the Tenants on or around October 6, 2022 by slipping it under their door. 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 was still in possession of the rental unit.
3. The lawful rent is \$1,534.27. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$50.44. This amount is calculated as follows: \$1,534.27 x 12, divided by 365 days.
5. The Tenants has not made any payments since the application was filed.

1. The rent arrears owing to October 31, 2022 are \$35,608.00. This amount exceeds the jurisdiction of the Board which is \$35,000.00. The Landlord understands that by accepting the Board's jurisdiction, it cannot pursue the Tenant for the amount above \$35,000.00 that is owing in any other application or court proceeding.
6. The Landlord is entitled to \$80.00 to reimburse the Landlord for administration charges and \$20.00 for bank fees the Landlord incurred as a result of 4 cheque given by or on behalf of the Tenants which was returned NSF.
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 \$1,569.49 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.
9. Interest on the rent deposit, in the amount of \$14.96 is owing to the Tenants for the period from January 1, 2021 to October 17, 2022.
10. 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 Tenants 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:**
 - \$35,894.00 if the payment is made on or before October 31, 2022. See Schedule 1 for the calculation of the amount owing.

OR

 - \$37,428.27 if the payment is made on or before November 5, 2022. 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 has paid the full amount owing as ordered plus any additional rent that became due after November 5, 2022 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 November 5, 2022**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$33,632.76. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application and unpaid NSF charges. The rent deposit and interest the Landlord owes

on the rent deposit are deducted from the amount owing by the Tenants. See Schedule 1 for the calculation of the amount owing.

6. The Tenants shall also pay the Landlord compensation of \$50.44 per day for the use of the unit starting October 18, 2022 until the date the Tenants moves out of the unit.
7. If the Tenants does not pay the Landlord the full amount owing on or before November 5, 2022, the Tenants will start to owe interest. This will be simple interest calculated from November 6, 2022 at 4.00% annually on the balance outstanding.
8. If the unit is not vacated on or before November 5, 2022, then starting November 6, 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 November 6, 2022.

October 25, 2022
Date Issued

Sandra Macchione
Member, Landlord and Tenants 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 6, 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 October 31, 2022

Rent Owing To October 31, 2022	\$35,608.00
Application Filing Fee	\$186.00
NSF Charges	\$100.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenants for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$
Total the Tenants must pay to continue the tenancy	\$35,894.00

B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before November 5, 2022

Rent Owing To November 30, 2022	\$37,142.27
Application Filing Fee	\$186.00
NSF Charges	\$100.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenants for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$37,428.27

C. Amount the Tenants must pay if the tenancy is terminated

Rent Owing To Hearing Date	\$34,931.21
Application Filing Fee	\$186.00
NSF Charges	\$100.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$1,569.49
Less the amount of the interest on the last month's rent deposit	- \$14.96
Less the amount the Landlord owes the Tenants for an {abatement/rebate}	- \$0.00

Less the amount of the credit that the Tenants is entitled to	- \$
Total amount owing to the Landlord	\$33,632.76
Plus daily compensation owing for each day of occupation starting October 18, 2022	\$50.44 (per day)