



AUG 6, 2024

Landlord and Tenant Board

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

Citation: Yip v Langley, 2024 ONLTB 56896

Date: 2024-08-06

File Number: LTB-L-016891-24

In the matter of: 407, 155 ST CLAIR AVE W
TORONTO ON M4V0A1

Between: Clarwyn Yip Landlord
Christopher Yip

And

Lisa Langley Tenant

Clarwyn Yip and Christopher Yip (the 'Landlord') applied for an order to terminate the tenancy and evict Lisa Langley (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes, and because the Tenant has been persistently late in paying the Tenant's rent.

This application was heard by videoconference on July 4, 2024.

Only the Landlord's Legal Representative David Ciobotaru attended the hearing.

As of 10:04 am, the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

When the capitalized word "Landlord" is used in this order, it refers to all persons or companies identified as a Landlord at the top of the order.

Determinations:

Arrears of rent

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 \$4,496.67. It is due on the 12th day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$147.84. This amount is calculated as follows: \$4,496.67 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.

6. The rent arrears owing to July 11, 2024, are \$31,475.02.

Persistent late payment of rent

7. On February 2, 2024, the Landlord gave the Tenant an N8 notice of termination deemed served on February 7, 2024. The notice of termination alleged that for the 14-month period from December 2022 to January 2024, the Tenant failed to pay the rent in full and on time 14 times.
8. At the hearing, the Landlord submitted that the Tenant also failed to pay their rent in full and on time for the five-month period to July 31, 2024.
9. The Tenant has persistently failed to pay the rent on the date it was due. The rent is due on the 1st day of each month. The rent has been paid late 19 times in the past 19 months.
10. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
11. The Landlord collected a rent deposit of \$4,280.00 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.
12. Interest on the rent deposit, in the amount of \$227.54 is owing to the Tenant for the period from November 12, 2021, to July 4, 2024.
13. 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.
14. Given my determination on the L2 portion of the application, there is no opportunity for the Tenant to void termination by paying the outstanding arrears on the L1 rent arrears application. That is because the persistent late payment application results in non-voidable termination.

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 August 17, 2024.
2. The Tenant shall pay to the Landlord \$26,057.13. 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.
3. The Tenant shall also pay the Landlord compensation of \$147.84 per day for the use of the unit starting July 5, 2024, until the date the Tenant moves out of the unit.
4. If the Tenant does not pay the Landlord the full amount owing on or before August 17, 2024, the Tenant will start to owe interest. This will be simple interest calculated from August 18, 2024, at 7.00% annually on the balance outstanding.

5. If the unit is not vacated on or before August 17, 2024, then starting August 18, 2024, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
6. 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 August 18, 2024.

August 6, 2024
Date Issued



Kyle Anderson
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 February 18, 2025, 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 as the tenancy is terminated

Rent Owing To Hearing Date	\$30,378.67
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$4,280.00
Less the amount of the interest on the last month's rent deposit	- \$227.54
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlord	\$26,057.13
Plus daily compensation owing for each day of occupation starting July 5, 2024	\$147.84 (per day)