



**Amended Order  
Order under Section 69  
Residential Tenancies Act, 2006  
And Section 21.1 of the Statutory Powers Procedure Act**

**Citation:** Samwaiel v Oyewole, 2024 ONLTB 85765

**Date:** 2024-11-19

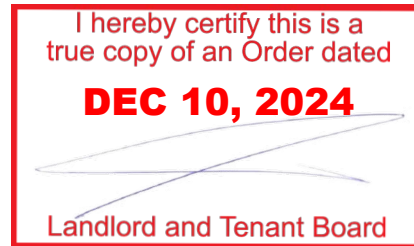
**File Number:** LTB-L-050673-24-AM

**In the matter of:** 2103-2220 LAKE SHORE BLVD W  
ETOBICOKE ON M8V0C1

**Between:** Sherif Samwaiel  
Samoeil Elgohary

**And**

Omopelumi Oyewole



Landlords

Tenant

Sherif Samwaiel and Samoeil Elgohary (the 'Landlords') applied for an order to terminate the tenancy and evict Omopelumi Oyewole (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on September 3, 2024.

The Landlords, The Tenants Legal Representative, Taff Butters, and the Tenant attended the hearing.

**This amended order is issued to correct a clerical error in the original order issued on November 19, 2024.**

**Determinations:**

*Application Amended to correct rental address by adding Unit 2103*

1. At the hearing, the Landlords' confirmed the L1 Application had a clerical error in that the section outlining the address of the rental unit covered by this Application had in inadvertently left out the apartment number of the rental unit, in error.
2. In the N4 served to the Tenant the correct address and apartment number was listed as 2103-2200 Lake Shore Blvd, Etobicoke, ON, M8V 0C1.
3. An application can be amended during a hearing where the Board is satisfied the amendment is appropriate, would not prejudice any party, and is consistent with a fair and expeditious proceeding. In this circumstance, I find that it is appropriate to amend the

application to reflect the correct rental unit address in the section outlining the address of the rental unit covered by this application.

*Preliminary Issues: The Tenant did not provide timely disclosure*

4. At the hearing the Tenant wished to include materials that were provided to the Board on September 2, 2024- which were subsequently posted to the Tribunals Ontario Portal ('TOP') on September 2, 2024 – 1 day in advance of the hearing.
5. Uploading materials to TOP does not mean documents have been provided to another party unless there is an agreement in place and, here, there was no such agreement.
6. The Tenant's Legal Representative submitted the Landlords were emailed the disclosure. The Landlords disputed this, in any event the Tenant's Legal Representative did not submit evidence of this.
7. Rule 19.1 of the LTB's Rules provides that all materials on which a party intends to rely at a hearing must be provided to the other party and the LTB 7 days in advance of the hearing. Rule 19.7 provides, in part, that a party who fails to comply with Rule 19 may not rely on evidence that was not properly disclosed unless ordered otherwise.
8. To comply with the disclosure requirements the Tenant had to provide all materials on which she intended to rely to the Landlords on or before August 27, 2024. This was not done.
9. Absent a satisfactory explanation as to why the Tenant could not have done so, the Tenant, may not rely on their materials.
10. The Board's records show the Notice of Hearing – which advises parties of their disclosure obligations mailed to the Tenant on July 4, 2024. Approximately 2 months prior to the hearing.
11. In the above circumstances I am not satisfied the Tenant could not have complied with the Rules. The Tenant had a period of at least 2 months to complete and provide her materials to the Landlord and LTB. The disclosure was ultimately completed and uploaded to TOP the day prior to the hearing.
12. As a result, the Tenant was not permitted to rely on materials they provided to the LTB on September 2, 2024. The Tenant remained free to provide her *viva voce* testimony on the materials.

*L1 Determination:*

13. The Landlords 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.

14. As of the hearing date, the Tenant was still in possession of the rental unit.
15. The lawful rent is \$2,650.00. It is due on the 1st day of each month.
16. Based on the Monthly rent, the daily rent/compensation is \$87.12. This amount is calculated as follows: \$2,650.00 x 12, divided by 365 days.
17. The Tenant has not made any payments since the application was filed.
18. The rent arrears owing to September 30, 2024, are \$14,900.00.
19. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
20. The Landlords collected a rent deposit of \$2,650.00 from the Tenant and this deposit is still being held by the Landlords. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
21. Interest on the rent deposit in the amount of \$ 56.37 is owing to the Tenant for the period of November 1, 2023 to September 3, 2024.
22. 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 January 31, 2025, pursuant to subsection 83(1)(b) of the Act. This extension of time accounts for both parties' evidence in relation to their financial circumstances.
23. The Landlords' submitted that the parties have attempted to work out a payment plan to no avail, since the application was filed. The Tenant's evidence in relation to entering a payment plan illustrated that a payment plan would not be viable given the Tenant's current life circumstances, health concerns, employment, income sources and monthly expenses. The Tenant would have difficulty covering the monthly rent, her other expenses, let alone the arrears.
24. The Tenant's Legal Representative along with the Tenant testified to the impact an eviction would have on her, explaining due to the recent passing of her father, the Tenant has no other family or anybody she can turn to for assistance, furthermore the Tenant is currently dealing with both physical and mental health issues, and although the tenancy has not been long-term, it has been long enough that the Tenant has significant connection to her neighbours, and the community and thus the Tenant requested and extended eviction for a few months, as she testified that an early eviction could destabilize her health recovery and life. The Tenant also testified to the financial challenges looking for a new home would bring given she has no one to look for support other than herself, although she has recently investigated financial assistance and rent banks, but as of the time of the hearing had not completed an application for either.
25. In response to questioning from the Board, the Landlords explained that any further delay in granting the application would be financial prejudicial to the Landlords, and that the Landlords rely on rent to pay expenses related to the rental unit.

26. Considering all of the evidence and, notwithstanding the Landlords may face some financial prejudice, I find that, pursuant to subsection 83(1)(b) of the Act that it would not be unfair to the Landlords to delay the eviction until January 31, 2025, due to the significant impact an early eviction would have on the Tenant.
27. Given the Tenant's connection to the community and her current life circumstances, I am satisfied that she may experience challenges securing housing that fits her needs such that more time is required. By contrast, the Landlords, while I acknowledge may face further financial prejudice, the Landlords is holding the last month's rent deposit and after considering the totality of the circumstances I conclude that delaying eviction to January 31, 2025, is fair and appropriate.
28. The extension of time will provide the Tenant time to secure her future income sources/funds to pay the arrears or to find a new place to live for herself.
29. This order contains all the reasons within it and no further reasons will be issued.

**It is ordered that:**

1. The tenancy between the Landlords 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 Landlords or to the LTB in trust:**
  - \$20,386.00 if the payment is made on or before November 30, 2024. See Schedule 1 for the calculation of the amount owing.

**OR**

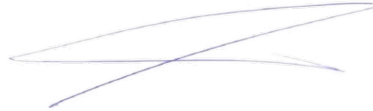
  - \$23,036.00 if the payment is made on or before December 31, 2024. See Schedule 1 for the calculation of the amount owing.

**OR**

  - \$25,686.00 if the payment is made on or before January 31, 2025. 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 January 31, 2025 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 January 31, 2025.**
5. If the Tenant does not void the order, the Tenant shall pay to the Landlords \$9,990.99. 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 Landlords 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 Landlords compensation of \$87.12 per day for the use of the unit starting September 4, 2024 until the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlords the full amount owing on or before January 31, 2025, the Tenant will start to owe interest. This will be simple interest calculated from February 1, 2025 at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before January 31, 2025, then starting February 1, 2025, the Landlords 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 Landlords on or after February 1, 2025.



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Panagiotis Peter Roupas  
Member, Landlord and Tenant Board

**November 19, 2024**  
**Date Issued**

**December 10, 2024**  
**Date Amended**

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 August 1, 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 to void the eviction order and continue the tenancy if the payment is made on or before November 30, 2024**

Rent Owing To November 30, 2024	\$20,200.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlords since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlords 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>\$20,386.00</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, 2024**

Rent Owing To December 31, 2024	\$22,850.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlords since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlords 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>\$23,036.00</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, 2025**

Rent Owing To January 31, 2025	\$25,500.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlords since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlords 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>\$25,686.00</b>
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**D. Amount the Tenant must pay if the tenancy is terminated**

Rent Owing To Hearing Date	\$12,511.36
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlords since the application was filed	- \$0.00
<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	- \$2,650.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$56.37
<b>Less</b> the amount the Landlords 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 amount owing to the Landlords</b>	<b>\$9,990.99</b>
Plus daily compensation owing for each day of occupation starting September 4, 2024	\$87.12 (per day)