



Sep 7, 2023

Landlord and Tenant Board

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

Citation: 13832023 Canada Inc. v Campbell, 2023 ONLTB 60310

Date: 2023-09-07

File Number: LTB-L-020058-23

In the matter of: BASEMENT UNIT, 17 JANINE ST.
BARRIE ON L4M3K5

Between: 13832023 Canada Inc.

Landlord

And

Dylan Campbell and Brittany Kinnear-
Hammond

Tenants

13832023 Canada Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Dylan Campbell and Brittany Kinnear-Hammond (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on July 5, 2023.

The Landlord's Agents, Gurpreet Singh and Sandeep Yadav, and the Tenants attended the hearing. The Tenants consulted with tenant duty counsel before the hearing.

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 were still in possession of the rental unit.
3. The lawful rent is \$1,998.75. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$65.71. This amount is calculated as follows: $\$1,998.75 \times 12$, divided by 365 days.
5. The Tenants has not made any payments since the application was filed.
6. The rent arrears owing to July 31, 2023 are \$11,748.75.
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 \$1,950.00 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 \$53.29 is owing to the Tenants for the period from June 2, 2022 to July 5, 2023.
10. The Tenants fell into arrears because they were unable to work. According to the Tenants the residential complex was very noisy and they were unable to sleep, which contributed to at least one Tenant's ability to stay employed. Neither Tenant was employed at the time of the hearing. The Tenants have been looking for alternate housing. They said that they required about two months to find alternate housing.
11. The Tenants proposed a payment plan pursuant which it would take about 2 years to pay off the arrears. Considering the Tenants' lack of income I found the Tenant's proposal unrealistic. The Landlord requested a standard 11 day voiding order.
12. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the Tenant's lack of income, the short duration of the tenancy (since June 2022), the amount of arrears, and the Landlord's attempts to negotiate a payment plan and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
13. The Tenants were informed at the hearing that I found their payment plan proposal unrealistic and as such the only issue to be determined was how much time the Tenants will have to find alternate housing. Considering the date of the issuance of the order, I find that a standard 11 day order is appropriate in the circumstances.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants void this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$15,932.25 if the payment is made on or before September 18, 2023. 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 have paid the full amount owing as ordered plus any additional rent that became due after September 18, 2023 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 September 18, 2023**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$8,261.26. 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 Tenants. See Schedule 1 for the calculation of the amount owing.
6. The Tenants shall also pay the Landlord compensation of \$65.71 per day for the use of the unit starting July 6, 2023 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 September 18, 2023, the Tenants will start to owe interest. This will be simple interest calculated from September 19, 2023 at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before September 18, 2023, then starting September 19, 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 September 19, 2023.



September 7, 2023
Date Issued

Jana Rozehnal
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 March 19, 2024 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 Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before September 18, 2023

Rent Owing To September 30, 2023	\$15,746.25
Application Filing Fee	\$186.00
NSF Charges	\$0.00
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 are entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$15,932.25

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

Rent Owing To Hearing Date	\$10,078.55
Application Filing Fee	\$186.00
NSF Charges	\$0.00
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	- \$1,950.00
Less the amount of the interest on the last month's rent deposit	- \$53.29
Less the amount the Landlord owes the Tenants for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants are entitled to	- \$0.00
Total amount owing to the Landlord	\$8,261.26
Plus daily compensation owing for each day of occupation starting July 6, 2023	\$65.71 (per day)