



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

Citation: Somerville v Dygos, 2024 ONLTB 11130

Date: 2024-03-15

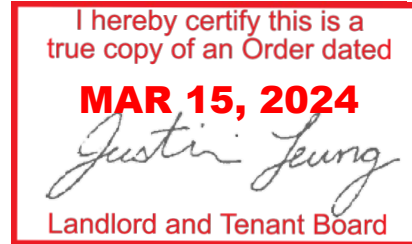
File Number: LTB-L-067479-23

In the matter of: 1, 92 FOREST
ST THOMAS ON N5R2J5

Between: Clifton Somerville

And

Loree and Bill Dygos



Landlord

Tenants

Clifton Somerville (the 'Landlord') applied for an order to terminate the tenancy and evict Loree and Bill Dygos (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on January 30, 2024.

The Landlord and the Tenants attended 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 \$1,921.00. It is due on the 1st day of each month. The rent was changed on January 1, 2024
4. Based on the Monthly rent, the daily rent/compensation is \$63.16. This amount is calculated as follows: \$1,921.00 x 12, divided by 365 days.
5. The Tenants made payments totalling \$5,775.00 since the application was filed.
6. The rent arrears owing to February 29, 2024 are \$6,646.00.
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 \$1,875.00 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 \$61.00 is owing to the Tenants for the period from October 13, 2022 to January 30, 2024.

10. 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 April 14, 2024 pursuant to subsection 83(1)(b) of the Act. The Landlord testified that he had attempted to make alternative arrangements, such as allowing rent to be paid at different times or allowing Tenants to perform maintenance work in lieu of work, to provide the Tenants an opportunity to pay their rent arrears but this has been unsuccessful. The Tenants stated that they believe their income should allow them to pay their rent on time but they have fallen into arrears. They requested an additional one month's time to possibly pay the arrears. The Landlord did not support this request and stated he does not believe the Tenants can afford the unit. In review of the Tenant's evidentiary material, it appears they have been making partial payments up until the hearing date. However, they have not provided any direct evidence demonstrating they can afford the unit based on their claimed income. However, recognizing that they have resided in the unit since mid-2022, I believe a postponed eviction by one month to April 14, 2024 is appropriate to allow the Tenants additional time to secure new accommodations.

It is ordered that:

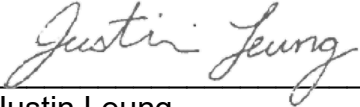
1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants void this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$8,753.00 if the payment is made on or before March 18, 2024. See Schedule 1 for the calculation of the amount owing.

OR

 - \$10,674.00 if the payment is made on or before April 14, 2024. 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 April 14, 2024 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 April 14, 2024**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$4,869.80. 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 \$63.16 per day for the use of the unit starting January 31, 2024 until the date the Tenants move out of the unit.

7. If the Tenants do not pay the Landlord the full amount owing on or before March 26, 2024, the Tenants will start to owe interest. This will be simple interest calculated from March 27, 2024 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before April 14, 2024, then starting April 15, 2024, 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 April 15, 2024.

March 15, 2024
Date Issued



Justin Leung
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 October 15, 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 March 18, 2024

Rent Owing To March 31, 2024	\$14,342.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$5,775.00
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	\$8,753.00

B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before April 14, 2024

Rent Owing To April 30, 2024	\$16,263.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$5,775.00
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	\$10,674.00

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

Rent Owing To Hearing Date	\$12,394.80
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$5,775.00
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	- \$1,875.00
Less the amount of the interest on the last month's rent deposit	- \$61.00
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 amount owing to the Landlord	\$4,869.80
Plus daily compensation owing for each day of occupation starting January 31, 2024	\$63.16 (per day)