



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


File Number: LTB-L-054029-22

In the matter of: 7, 3089 QUAIL DR
GLOUCESTER ON K1T1T9

Between: Justin Abou-Abdou
Jean-Patrick Abou-Abdou

And

Erin Daines
Thomas Christopher David Jarrett

I hereby certify this is a
true copy of an Order dated
August 31, 2023

Landlord and Tenant Board

Landlords

Tenants

Justin Abou-Abdou and Jean-Patrick Abou-Abdou (the 'Landlords') applied for an order to terminate the tenancy and evict Erin Daines and Thomas Christopher David Jarrett (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on August 18, 2023.

Only the Landlord Justin Abou-Abdou and the Landlords' Legal Representative Jordan Nieuwhof attended the hearing.

As of 9:30 a.m., the Tenants were 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 Landlords' evidence.

Determinations:

1. The Landlords 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 Landlords submit that the lawful rent is \$2,275.00.
4. Based on the monthly rent, the daily rent/compensation is \$74.79. This amount is calculated as follows: \$2,275.00 x 12, divided by 365 days.
5. The Tenants have paid \$7,534.00 to the Landlords since the application was filed.
6. The rent arrears owing to August 31, 2023 are \$20,355.00.
7. The Landlords incurred costs of \$186.00 for filing the application and are entitled to reimbursement of those costs.
8. There is no last month's rent deposit.

Subsection 83(2) Considerations

9. I must consider all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act').
10. The Landlords' Legal Representative J.N. submits that each of the Tenants receives social service benefits, from the Ontario Disability Support Program ('ODSP') and Ontario Works ('OW'), respectively. Since March 1, 2023, the Landlords have been receiving \$889.00 for the rent directly from ODSP, which represents the shelter portion of the benefits.
11. OW does not make any direct payments to the Landlords for shelter costs. It is the remaining balance of \$1,386.00 monthly which the Tenants have failed to pay in full and on time. When combined with the Tenants' failure to make payments in September, November and December 2022 or in January and February 2023, this amount constitutes the arrears accumulated to date.
12. The Tenants have made sporadic payments, the most recent transaction being in May 2023, when the Tenants paid \$1,111.00. Prior to May 2023, the last payment the Tenants made towards the unsubsidized portion of rent, and towards the arrears, was in November 2022.
13. The Landlords conclude that, based on the Tenants' known monthly income, the Tenants do not have the financial resources to afford the rent. Even if they are mistaken, J.N. submits that the Landlords cannot trust that the Tenants will commit to, and follow, a payment plan. J.N. stated that the Landlords have been exceptionally patient and reasonable, having offered the Tenants several payment plans in the past, none of which resolved the issues.
14. Although there appears to be a clerical error with respect to the amount of the lawful monthly rent in the interim order issued on April 27, 2023 (\$2,200.00 vs \$2,275.00), J.N. remarked that the order required the Tenants to pay to the Landlord the monthly rent in full and on time from May 1, 2023 until the application was resolved. J.N. submits that the Tenants failed to make any payments for the months of June, July or August 2023.
15. The Landlords' evidence is uncontested. The amount of arrears is substantial. It will significantly prejudice the Landlords if the tenancy continues when rent is not being paid as required.
16. J.N. also submits that the Tenants have wilfully or negligently caused undue damage to the rental unit, the allegations of which are the subject of an L2 application before the Board and yet to be heard.
17. The Landlords' position is that the tenancy is unsustainable. They see no reason for the Board to refuse or delay an eviction. J.N. explained that the Landlords need time to repair the damage to the rental unit after the Tenants vacate and before moving new tenants in. However, the Landlords can, and should, complete the repairs while the Tenants are residing in the unit.
18. J.N. emphasized that the Tenants, knowing they cannot afford the rent, have had more than sufficient time to arrange for alternative housing since (i) the N4 notice of termination was served in September 2022, (ii) the Notice of Hearing was sent on February 16, 2023, and (iii) the hearing on April 11, 2023.

19. On the other hand, I have considered that the Tenants paid their rent in full and on time between May 2021 and July 2022. They then made payments in August 2022, October 2022 and May, 2023. As of March 2023, the Landlords have been regularly receiving partial rent. This must be weighed against the fact that Tenants consented to an interim order at the April 11th hearing, a term of which was to pay their rent in full and on time pending this hearing date. The Tenants did not then pay the rent in full and on time.
20. Another factor to consider is the Tenants' ability to promptly secure affordable housing. It appears that since August 2022 the Tenants have relied on a limited income, which will surely make it more difficult in the current housing market to acquire suitable housing.
21. I have also noted, upon reviewing the Landlords' ledger, as submitted to the Board, that the Landlords increased the rent as of April 1, 2022 in an amount that does not accord with the provincially-regulated rent increase of 1.2% for 2022. The Landlords increased the rent by \$337.50, from \$1,875.00 to \$2,275.00 which represents an 18% increase. The arrears are calculated upon the increased rent amount.
22. This means that, absent lawful justification, the Landlords could only increase the rent by \$22.50 (to \$1,897.50), with proper notice of the increase. However, that issue was not before me at this hearing and the Tenants were not present to testify. The facts might appropriately be the subject of a Tenants' application to the Board for a suitable remedy.
23. Having considered all of the circumstances, I find that it would not be unfair to postpone the eviction for a further 10 days beyond the standard 11 days, until September 21, 2023 pursuant to subsection 83(1)(b) of the Act.

It is ordered that:


1. The tenancy between the Landlords 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 Landlords or to the LTB in trust:**
 - \$20,541.00 if the payment is made on or before August 31, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 - \$22,816.00 if the payment is made on or before September 21, 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 21, 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 21, 2023.**

5. If the Tenants do not void the order, the Tenants shall pay to the Landlords \$19,612.22. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
6. The Tenants shall also pay the Landlords compensation of \$74.79 per day for the use of the unit starting August 19, 2023 until the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlords the full amount owing on or before September 21, 2023, the Tenants will start to owe interest. This will be simple interest calculated from September 22, 2023 at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before September 21, 2023, then starting September 22, 2023, 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 September 22, 2023.

August 31, 2023
Date Issued



Elle Venhola
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 12, 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 August 31, 2023

Rent Owing To August 31, 2023	\$27,889.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlords since the application was filed	- \$7,534.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlords owe 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	\$20,541.00

B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before September 21, 2023

Rent Owing To September 30, 2023	\$30,164.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlords since the application was filed	- \$7,534.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlords owe 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	\$22,816.00

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

Rent Owing To Hearing Date of August 18, 2023	\$26,960.22
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlords since the application was filed	- \$7,534.00
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	- \$0.00
Less the amount of the interest on the last month's rent deposit	- \$0.00
Less the amount the Landlords owe 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 Landlords	\$19,612.22
Plus daily compensation owing for each day of occupation starting August 19, 2023	\$74.79 (per day)