

Order under Section 69
Residential Tenancies Act, 2006

D14

File Number: SOL-40201-13

In the matter of: MAIN FLOOR, 6 CLIVE AVENUE
GUELPH ON N1E3S3

Between: Andrew Donlan Landlord

and

Donna McEachern
Lucas Rivers

Tenants

I hereby certify this is a true copy of an Order

October 8, 2013
Landlord and Tenant Board

Andrew Donlan (the 'Landlord') applied for an order to terminate the tenancy and evict Donna McEachern ('DM') and Lucas Rivers (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard in Guelph on October 7, 2013. The Landlord and the Tenant, DM, attended the hearing.

Reasons and Determinations:

1. The Tenants have not paid the total rent they were required to pay for the period from August 1, 2013 to October 31, 2013. Because of the arrears, the Landlord served a Notice of Termination effective August 16, 2013.
2. The Landlord collected a rent deposit of \$1,300.00 from the Tenants and this deposit is still being held by the Landlord.
3. Interest on the rent deposit is owing to the Tenants for the period from February 1, 2013 to August 16, 2013.
4. It is not disputed that the Landlord received \$900.00 from the Tenants after the application was filed. The Landlord said that he applied part of the payment to utility arrears and the balance toward rent arrears. The Tenant testified that she intended that the full amount be applied to the rent arrears.
5. The person who owes the debt can determine which debt is paid. I am satisfied that the Tenants intended the full amount of \$900.00 be paid towards the rent arrears.
6. The Tenants paid \$900.00 after the application was filed.

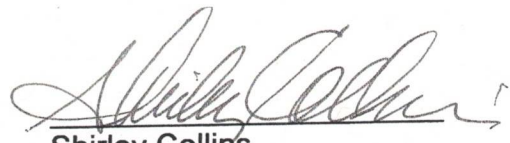
7. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

It is ordered that:

1. Unless the Tenant voids the order as set out below, the tenancy between the Landlord and the Tenants is terminated. The Tenants must move out of the rental unit on or before October 19, 2013.
2. The Tenants shall pay to the Landlord \$731.53*, which represents the amount of rent owing and compensation up to October 8, 2013, less the rent deposit and interest the Landlord owes on the rent deposit.
3. The Tenants shall also pay to the Landlord \$42.74 per day for compensation for the use of the unit starting October 9, 2013 to the date they move out of the unit.
4. The Tenants shall also pay to the Landlord \$170.00 for the cost of filing the application.
5. If the Tenants do not pay the Landlord the full amount owing* on or before October 19, 2013, the Tenants will start to owe interest. This will be simple interest calculated from October 20, 2013 at 3.00% annually on the balance outstanding.
6. If the unit is not vacated on or before October 19, 2013, then starting October 20, 2013, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
7. 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 October 20, 2013.
8. If, on or before October 19, 2013, the Tenants pay the amount of \$3,170.00** to the Landlord or to the Board in trust, this order for eviction will be void. This means that the tenancy would not be terminated and the Tenants could remain in the unit. If this payment is not made in full and on time, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
9. The Tenants may make a motion to the Board under subsection 74(11) of the Act to set aside this order if they pay the amount required under that subsection on or after October 20, 2013 but before the Sheriff gives vacant possession to the Landlord. The Tenants are only entitled to make this motion once during the period of the tenancy agreement with the Landlord.

Note: No other reasons will be issued for this order.

October 8, 2013
Date Issued


Shirley Collins
Member, Landlord and Tenant Board

Southern-RO
119 King Street West, 6th Floor
Hamilton ON L8P4Y7

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 April 20, 2014 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.

- * Refer to section A on the attached Summary of Calculations.
- ** Refer to section B on the attached Summary of Calculations.

**Schedule 1
SUMMARY OF CALCULATIONS**

File Number: SOL-40201-13

A. Amount the Tenants must pay if the tenancy is terminated:

| Reasons for amount owing | Period | Amount |
|---|-------------------------------------|---|
| Arrears: (up to the termination date in the Notice of Termination) | August 1, 2013 to August 16, 2013 | \$683.84 |
| Less the amount the Tenants paid to the Landlord | | -\$900.00 |
| Plus compensation: (from the day after the termination date in the Notice to the date of the order) | August 17, 2013 to October 8, 2013 | \$2,265.22 |
| Less the rent deposit: | | -\$1,300.00 |
| Less the interest owing on the rent deposit: | February 1, 2013 to August 16, 2013 | -\$17.53 |
| Amount owing to the Landlord on the order date: (total of previous boxes) | | \$731.53 |
| Additional costs the Tenants must pay to the Landlord: | | \$170.00 |
| Plus daily compensation owing for each day of occupation starting October 9, 2013: | | \$42.74 (per day) |
| Total the Tenants must pay the Landlord if the tenancy is terminated: | | \$901.53, + \$42.74 per day starting October 9, 2013 |

B. Amount the Tenants must pay to void the eviction order and continue the tenancy:

| Reasons for amount owing | Period | Amount |
|--|------------------------------------|-------------------|
| Arrears: | August 1, 2013 to October 31, 2013 | \$3,900.00 |
| Less the amount the Tenants paid to the Landlord | | -\$900.00 |
| Additional costs the Tenants must pay to the Landlord: | | \$170.00 |
| Total the Tenants must pay to continue the tenancy: | On or before October 19, 2013 | \$3,170.00 |