

In the matter of:

124 CAVELL AVE
HAMILTON ON L8L7ES

Between:

Bayside Property Management Inc.

and

Ashley Ocallaghan
Tracy Ferguson

Tenants

Landlord

I hereby certify this is a true copy of an Order

[Signature]

Dated APR 25 2018

Landlord and Tenant Board

Bayside Property Management Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Ashley Ocallaghan and Tracy Ferguson (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe (L1).

The Landlord also applied for an order to terminate the tenancy and evict the Tenants because the Tenants have been persistently late in paying the monthly rent. The Landlord also applied for an order for compensation for damage to the rental unit. The Landlord also applied for an order for compensation for each day that the Tenants stay in the rental unit after the termination date (L2).

These applications were heard in Hamilton on April 12, 2018.

Only the Landlord's representatives, Jeff Iacobucci (JI) and Ruth Lewis (RL), attended the hearing. As of 11:40 a.m., the Tenants were not present or represented at the hearing, although properly served with the Notice of Hearing by the Board.

Determinations:

1. The tenancy commenced on May 1, 2017 for a one-year term to expire on April 30, 2018.
2. The Tenants are in possession of the rental unit.
3. The monthly rent is \$1,500.00, due and payable on the 1st day of every month.
4. The Tenants have not paid the total rent the Tenants were required to pay for the period from February 1, 2018 to April 30, 2018. Because of the arrears, the Landlord served a Notice of Termination effective February 23, 2018.

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5. The amount outstanding to April 30, 2018, inclusive of rent arrears (\$2,000.00) and costs (\$190.00), is \$2,190.00.

6. The Tenants have paid the rent late seven (7) times in the last twelve (12) months. The Tenants have been persistently late in paying the monthly rent. Because of the Tenants' persistent late payment of rent, the Landlord served a Notice of Termination effective April 30, 2018.

7. The Landlord collected a rent deposit of \$1,500.00 from the Tenants and this deposit is still being held by the Landlord.

8. Interest on the rent deposit is owing to the Tenants for the period from May 1, 2017 to February 23, 2018.

9. The Tenants installed an inflatable pool in the backyard without the Landlord's permission. The pool damaged the grass in the area which it covered. The Landlord will incur a cost of \$200.00 to replace the sod in the area. The Landlord is entitled to compensation in the sum of \$200.00 for the damage to the grass in the exterior of the rental unit under Section 89 of the *Residential Tenancies Act, 2006* (the "Act").

10. I decline to order payment of \$128.37 representing the amount paid by the Landlord toward the Tenants' unpaid water bill, as this does not constitute cost to repair or replace damage to the rental unit, as contemplated under Section 89 of the Act.

11. 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. The tenancy between the Landlord and the Tenants is terminated. The Tenants must move out of the rental unit on or before April 30, 2018.

2. The Tenants shall pay to the Landlord \$320.64*, which represents the amount of rent owing and compensation up to April 25, 2018, plus compensation for damage less the rent deposit and interest the Landlord owes on the rent deposit.


3. The Tenants shall also pay to the Landlord \$49.32 per day for compensation for the use of the unit starting April 26, 2018 to the date the Tenants move out of the unit.

4. The Tenants shall also pay to the Landlord \$190.00 for the cost of filing the application.

5. If the Tenants do not pay the Landlord the full amount owing* on or before April 30, 2018, the Tenants will start to owe interest. This will be simple interest calculated from May 1, 2018 at 3.00% annually on the balance outstanding.

- 6. If the unit is not vacated on or before April 30, 2018, then starting May 1, 2018, 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 May 1, 2018.

April 25, 2018
Date Issued


 Cristina De Leon-Culp
 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 November 1, 2018 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-90728-18

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

Reasons for amount owing	Period	Amount
Arrears: (up to the termination date in the Notice of Termination)	February 1, 2018 to February 23, 2018	\$634.25

Less the amount the Tenants paid to the Landlord		-\$2,000.00
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	February 24, 2018 to April 25, 2018	\$3,008.52

Plus Compensation for damage		\$200.00
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Less the rent deposit:		-\$1,500.00
Less the interest owing on the rent deposit:	May 1, 2017 to February 23, 2018	-\$22.13

Amount owing to the Landlord on the order date: (total of previous boxes)		\$320.64
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Additional costs the Tenants must pay to the Landlord:		\$190.00
Plus daily compensation owing for each day of occupation starting April 26, 2018:		\$49.32 (per day)

Total the Tenants must pay the Landlord if the tenancy is terminated:		\$510.64, + \$49.32 per day starting April 26, 2018
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