



Order under Section 69  
Residential Tenancies Act, 2006

File Number: SOL-96881-18

In the matter of: 1, 56 NICKEL STREET  
PORT COLBORNE ON L3K1B2

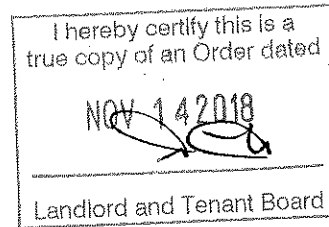
Between: Atkins Prime Properties Inc.

Landlord

and

James A Finlayson  
Rayae Ann Hipfner

Tenants



Atkins Prime Properties Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Rayae Ann Hipfner and James A Finlayson (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard in St. Catharines on November 1, 2018. Only the Landlord's Representative, Judith Callender, attended the hearing. As of 11:05 a.m., the Tenants were not present or represented at the hearing although properly served with notice of this hearing by the Board.

**Determinations:**

1. The Tenants have not paid the total rent they were required to pay for the period from August 1, 2018 to November 30, 2018. Because of the arrears, the Landlord served a Notice of Termination effective August 16, 2018.
2. The Tenants are in possession of the rental unit.
3. The monthly rent is \$705.00.
4. The Tenants have made no payments since the application was filed.
5. The Landlord collected a rent deposit of \$705.00 from the Tenants and this deposit is still being held by the Landlord.
6. Interest on the rent deposit is owing to the Tenants for the period from November 30, 2017 to August 16, 2018.

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. Due to a potential Canada Post strike, the Landlord must immediately give a copy of this Order to the Tenant by:
  - handing it to the tenant;
  - handing it to an apparently adult person in the rental unit;
  - leaving it in the tenant's mailbox; or,
  - if there is no mailbox, leaving it at the place where mail is ordinarily delivered to the tenant; or
  - placing a copy of the order under the door of the rental unit or through a mail slot in the door; or
  - if there is a fax machine where the tenant resides, by fax

The Landlord shall not use regular mail, registered mail, Xpresspost or any courier service that is used by Canada Post to deliver the Order.

2. Unless the Tenants void 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 November 24, 2018.
3. The Tenants shall pay to the Landlord \$1,529.82\*, which represents the amount of rent owing and compensation up to November 13, 2018, less the rent deposit and interest the Landlord owes on the rent deposit.
4. The Tenants shall also pay to the Landlord \$23.18 per day for compensation for the use of the unit starting November 14, 2018 to the date they move out of the unit.
5. The Tenants shall also pay to the Landlord \$175.00 for the cost of filing the application.
6. If the Tenants do not pay the Landlord the full amount owing\* on or before November 24, 2018, the Tenants will start to owe interest. This will be simple interest calculated from November 25, 2018 at 3.00% annually on the balance outstanding.
7. If the unit is not vacated on or before November 24, 2018, then starting November 25, 2018, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
8. 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 November 25, 2018.
9. If, on or before November 24, 2018, the Tenants pay the amount of \$2,805.00\*\* 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.

10. 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 November 25, 2018 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.

**November 13, 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 May 25, 2019 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**

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**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, 2018 to August 16, 2018	\$180.85
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	August 17, 2018 to November 13, 2018	\$2,063.02
Less the rent deposit:		-\$705.00
Less the interest owing on the rent deposit:	November 30, 2017 to August 16, 2018	-\$9.05
Amount owing to the Landlord on the order date: (total of previous boxes)		<b>\$1,529.82</b>
Additional costs the Tenants must pay to the Landlord:		\$175.00
Plus daily compensation owing for each day of occupation starting November 14, 2018:		\$23.18 (per day)
<b>Total the Tenants must pay the Landlord if the tenancy is terminated:</b>		<b>\$1,704.82, + \$23.18 per day starting November 14, 2018</b>

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

Reasons for amount owing	Period	Amount
Arrears:	August 1, 2018 to November 30, 2018	\$2,630.00
Additional costs the Tenants must pay to the Landlord:		\$175.00
<b>Total the Tenants must pay to continue the tenancy:</b>	On or before November 24, 2018	<b>\$2,805.00</b>