



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

**File Number:** SOL-20805-21-HR

**In the matter of:** 7 CADY STREET  
WELLAND ON L3B 4B5

**Between:** Bheesham Kawal Landlord

**and**

Dustin Cluney Tenants  
Samantha Wilson

Bheesham Kawal (the 'Landlord') applied for an order to terminate the tenancy and evict Samantha Wilson and Dustin Cluney (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on July 27, 2021, beginning at 9:00 a.m.

The Landlord and the Landlord's Agent Naiome Kawal attended the hearing. As of 9:55 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 the Tenants were required to pay for the period from January 1, 2021 to July 31, 2021. Because of the arrears, the Landlord served a Notice of Termination effective March 1, 2021.
2. The Tenants are in possession of the rental unit.
3. The lawful monthly rent is \$1,850.00.
4. The Landlord collected a rent deposit of \$1,850.00 from the Tenants and this deposit is still being held by the Landlord.
5. Interest on the rent deposit is owing to the Tenants for the period from October 22, 2020 to March 1, 2021.
6. The Tenants have made no payments since the application was filed.

7. At the hearing, Ms. Kawal explained that they made attempts to contact the Tenants by email, by phone and in person to attempt to negotiate a payment agreement with the Tenants. The Tenants finally put forward a payment agreement to which the Landlord agreed, however the Tenants did not follow through on their agreement. Ms. Kawal indicated that the Tenants receive money for rent through ODSP, but they are choosing not to pay.
8. I have considered all of the disclosed circumstances, including the impact of COVID-19, 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. The Tenants have not paid any rent in several months and have not attended the hearing to explain why they should be granted relief from eviction.

**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 2, 2021.
2. The Tenants shall pay to the Landlord \$14,167.43\*, which represents the amount of rent owing and compensation up to September 21, 2021, less the rent deposit and interest the Landlord owes on the rent deposit.
3. The Tenants shall also pay to the Landlord \$60.82 per day for compensation for the use of the unit starting September 22, 2021 to the date the Tenants move out of the unit.
4. The Tenants shall also pay to the Landlord \$186.00 for the cost of filing the application.
5. If the Tenants do not pay the Landlord the full amount owing\* on or before October 2, 2021, the Tenants will start to owe interest. This will be simple interest calculated from October 3, 2021 at 2.00% annually on the balance outstanding.
6. If the unit is not vacated on or before October 2, 2021, then starting October 3, 2021, 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 3, 2021.
8. If the Tenants wish to void this order and continue the tenancy, the Tenants must pay to the Landlord or to the Board in trust:
  - i) \$16,686.00 if the payment is made on or before September 30, 2021, or
  - ii) \$18,536.00 if the payment is made on or before October 2, 2021\*\*.If the Tenants do not make full payment in accordance with this paragraph and by the appropriate deadline, then 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 3, 2021 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.

**September 21, 2021**  
**Date Issued**

  
Marie-France Pelletier  
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 3, 2022 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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2021 CanLII 125862 (ON LTB)

**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)	January 1, 2021 to March 1, 2021	\$3,610.82
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	March 2, 2021 to September 21, 2021	\$12,407.28
Less the rent deposit:		-\$1,850.00
Less the interest owing on the rent deposit:	October 22, 2020 to March 1, 2021	-\$0.67
Amount owing to the Landlord on the order date: (total of previous boxes)		<b>\$14,167.43</b>
Additional costs the Tenants must pay to the Landlord:		\$186.00
Plus daily compensation owing for each day of occupation starting September 22, 2021:		\$60.82 (per day)
<b>Total the Tenants must pay the Landlord if the tenancy is terminated:</b>		<b>\$14,353.43, + \$60.82 per day starting September 22, 2021</b>

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

**1. If the payment is made on or before September 30, 2021:**

Reasons for amount owing	Period	Amount
Arrears:	January 1, 2021 to September 30, 2021	\$16,500.00
Additional costs the Tenants must pay to the Landlord:		\$186.00
<b>Total the Tenants must pay to continue the tenancy:</b>	On or before September 30, 2021	<b>\$16,686.00</b>

2. If the payment is made after September 30, 2021 but on or before October 2, 2021:

Reasons for amount owing	Period	Amount
Arrears:	January 1, 2021 to October 31, 2021	\$18,350.00
Additional costs the Tenants must pay to the Landlord:		\$186.00
<b>Total the Tenants must pay to continue the tenancy:</b>	On or before October 2, 2021	\$18,536.00