



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

Citation: Nomsa Nhamoinesu v Justin Wolfe Bard, 2023 ONLTB 47154

Date: 2023-07-04


File Number: LTB-L-016844-23

In the matter of: 908 TORINO TERR
ORLEANS ON K4A0P8

Between: Nomsa Nhamoinesu

And

Justin Wolfe Bard
Megan Davey

I hereby certify this is a
true copy of an Order dated
JUL 4, 2023

Landlord and Tenant Board

Landlord

Tenants

Nomsa Nhamoinesu (the 'Landlord') applied for an order to terminate the tenancy and evict Justin Wolfe Bard and Megan Davey (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on June 21, 2023.

The Landlord Nomsa Nhamoinesu and the Landlord's Legal Representative Grace George and the Tenant Megan Davey attended the hearing.

The parties before the Board consented to the following order. I was satisfied the parties understood the consequences of the joint position.

Determinations:

1. The Landlord 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 lawful rent is \$2,700.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$88.77. This amount is calculated as follows: \$2,700.00 x 12, divided by 365 days.
5. The Tenants have not made any payments since the application was filed.
6. The rent arrears owing to June 30, 2023 are \$21,600.00.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

8. The Landlord collected a rent deposit of \$2,700.00 from the Tenants and this deposit is still being held by the Landlord. The rent deposit can only be applied to the last rental period of the tenancy.
9. The Landlord owes \$71.61 in interest on the rent deposit for the period August 23, 2021 until July 31, 2023.
10. On consent, the parties requested a final, non-voidable termination of this tenancy as of August 31, 2023. As a consequence, the Tenants do not have the option to void the eviction order under subsections 74(4) or 74(11) of the *Residential Tenancies Act, 2006* (the 'Act') by paying the outstanding rent arrears.

On consent of the parties, it is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated effective August 31, 2023. The Tenants must move out of the rental unit on or before August 31, 2023. This is a non voidable termination of the tenancy.
2. The Tenants shall pay to the Landlord \$24,414.39, which represents the amount of rent arrears owing until June 30, 2023, the monthly rent for July 2023 and costs, minus the interest owing on the rent deposit in the amount of \$71.61.
3. The Landlord shall apply the rent deposit to August 31, 2023 as it is the last month of the tenancy.
4. If the Tenants do not pay the Landlord the full amount owing on or before August 1, 2023, the Tenants will start to owe interest. This will be simple interest calculated from August 2, 2023 at 6.00% annually on the balance outstanding.
5. The Tenants shall also pay the Landlord compensation of \$88.77 per day for the use of the unit starting September 1, 2023 until the date the Tenants move out of the unit.
6. The Landlord or the Tenants shall pay to the other any sum of money that is owed as a result of this order.
7. If the unit is not vacated on or before August 31, 2023, then starting September 1, 2023, 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 September 1, 2023.

July 4, 2023
Date Issued



John Cashmore
Member, Landlord and Tenant 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 1, 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.