



SEPT 12, 2023

**Order Issue on Consent
Order under Section 69 and 77
Residential Tenancies Act, 2006**

Citation: Ponziani v Bennett, 2023 ONLTB 61239

Date: 2023-09-12

File Number: LTB-L-031074-23

In the matter of: TH#50, 10 BRIN DR
Toronto ON M8X0B3

Between: Davide Ponziani, Gabriela Ponziani, Gina Ponziani and Christopher Ponziani Landlord

And

Kaelyndo Bennett and Tiana Hammond-smith Tenant

Davide Ponziani, Gabriela Ponziani, Gina Ponziani and Christopher Ponziani (the 'Landlord') applied for an order to terminate the tenancy and evict Kaelyndo Bennett and Tiana Hammond-smith (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on August 31, 2023.

The Landlord's Legal Representative Kathleen Lovett and the 3rd and 4th name Landlord and the 1st named Tenant attended the hearing.

The Parties mutually agreed to resolve all matters at issue in the application and request on order on consent. I was satisfied that the parties understood the consequences of the joint submission.

At the hearing, the parties agreed:

1. The Landlord served the Tenant with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenant 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 Tenant was still in possession of the rental unit.
3. The lawful rent is \$2,870.00. It is due on the 7th day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$94.36. This amount is calculated as follows: \$2,870.00 x 12, divided by 365 days.
5. The Landlord collected a rent deposit of \$2,800.00 from the Tenant 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 if the tenancy is terminated.

6. The parties agree that the outstanding amount is \$17,876.00, which represents rents arrears and costs.
7. On consent, the parties requested a final, non-voidable termination of this tenancy based on their agreement to terminate the tenancy as of October 7, 2023. The application is amended to include an L3 application for termination of the tenancy. As a consequence, the Tenant does 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.
- 8.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated on October 7, 2023. This means the Tenant must move out of the rental unit on or before October 7, 2023.
2. The Tenant shall also pay the Landlord compensation of \$94.36 per day for the use of the unit starting September 1, 2023, until the date the Tenant moves out of the unit.
3. The Tenant shall pay to the Landlord **\$15,076.00**. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenant. See Schedule 1 for the calculation of the amount owing.
4. If the Tenant does not pay the Landlord the full amount owing on or before October 7, 2023, the Tenant will start to owe interest. This will be simple interest calculated from October 8, 2023 at 6.00% annually on the balance outstanding.
5. If the unit is not vacated on or before October 7, 2023, then starting October 8, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
6. 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 8, 2023.

September 12, 2023
Date Issued



Anthony Bruno
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 April 8, 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.

Schedule 1
SUMMARY OF CALCULATIONS

A. Amount the Tenant must pay as the tenancy is terminated on October 7, 2023

Rent Owing To Hearing Date	\$17,690.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$2,800.00
Less the amount of the interest on the last month's rent deposit	- \$0.00
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlord	\$15,076.00
Plus daily compensation owing for each day of occupation starting September 1, 2023	\$94.36 (per day)