



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

Citation: Miller v Mclean, 2024 ONLTB 5995

Date: 2024-01-25

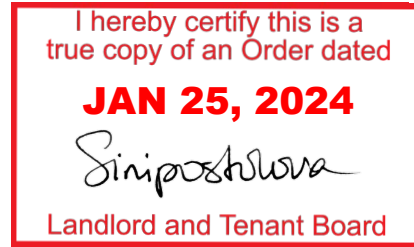
File Number: LTB-L-079117-22

In the matter of: 3, 455 DELL ST
SUDBURY ON P3B2M3

Between: Cheryl Miller

And

Jean-Sebastien Mclean
Andree Lacombe



Landlord

Tenants

Cheryl Miller (the 'Landlord') applied for an order to terminate the tenancy and evict Jean-Sebastien Mclean and Andree Lacombe (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe (the 'L1 Application').

The Landlord also applied for an order to terminate the tenancy because the conduct of the Tenants, another occupant of the rental unit or a person permitted in the residential complex by the Tenants substantially interfered with the reasonable enjoyment of the residential complex for all usual purposes by the landlord or another Tenants (the 'L2 Application').

This application was heard by videoconference on January 8, 2024.

The Landlord, the Landlord's Legal Representative Deborah Shewman, and the Tenant Andree Lacombe attended the hearing.

The Landlords' Legal Representative requested to withdraw the L2 Application, given that the Tenants vacated the rental unit. Pursuant to s. 200 (4) of the RTA, I consented to the withdrawal.

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. The Tenants were in possession of the rental unit on the date the application was filed.
3. The Tenants vacated the rental unit on October 28, 2023. Rent arrears are calculated up to the date the Tenants vacated the unit.
4. The lawful rent is \$1,450.00. It was due on the 1st day of each month.
5. The Tenants have not made any payments since the application was filed.

6. The rent arrears owing to October 28, 2023 are \$16,284.76.
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 \$1,450.00 from the Tenants and this deposit is still being held by the Landlord. The rent deposit is applied to the arrears of rent because the tenancy terminated.
9. Interest on the rent deposit, in the amount of \$39.53 is owing to the Tenants for the period from September 26, 2022 to October 28, 2023.
10. The Tenants requested to postpone the payment due date to August 2024. The Tenants have not made any payments to the Landlord since the application was filed. This suggests to me that the Tenants do not intend to repay the Landlord. As such, I find that a postponement of the payment due date is not reasonable in this case.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated as of October 28, 2023, the date the Tenants moved out of the rental unit.
2. The Tenants shall pay to the Landlord \$14,981.23. This amount includes rent arrears owing up to the date the Tenants moved out of the rental unit and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit is deducted from the amount owing by the Tenants. See Schedule 1 for the calculation of the amount owing.
3. If the Tenants do not pay the Landlord the full amount owing on or before February 5, 2024, the Tenants will start to owe interest. This will be simple interest calculated from February 6, 2024 at 7.00% annually on the balance outstanding.

January 25, 2024

Date Issued



Kate Sinipostolova

Member, Landlord and Tenant Board

15 Grosvenor St, 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.

**Schedule 1
SUMMARY OF CALCULATIONS**

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

Rent Owing To Move Out Date	\$16,284.76
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$1,450.00
Less the amount of the interest on the last month's rent deposit	- \$39.53
Less the amount the Landlord owes the Tenants for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$0.00
Total amount owing to the Landlord	\$14,981.23