

Order under Section 78(6)  
**Residential Tenancies Act, 2006**

**File Number:** SWL-54963-21

**In the matter of:** 304, 871 ADELAIDE STREET N  
LONDON ON N5Y2M2

**Between:** 2765749 Ontario Corporation

**and**

Amelia Villa  
Ricard Milek

I hereby certify this is a  
true copy of an Order dated

**JAN 26, 2022**

TR

Landlord and Tenant Board

Landlord

Tenants

2765749 Ontario Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Ricard Milek and Amelia Villa (the 'Tenants') and for an order to have the Tenants pay the rent they owe because the Tenants failed to meet a condition specified in the order issued by the Board on April 22, 2021 with respect to application SWL-46342-20.

This application was heard by videoconference on January 14, 2022.

Only the Landlord attended the hearing. The Landlord was represented by Carmen Dawdy.

**Determinations:**

**PRELIMINARY REQUEST TO AMEND ORDER**

1. At the beginning of the hearing, the Landlord sought an amendment to the L4 application to remove the Landlords "CANCO INVESTMENT PROPERTIES and JAMES FERNANDEZ" and to add the new Landlord 2765749 Ontario Corporation, as the property was sold in August 2021 to the new Landlord.
2. The Landlord testified the amended L4 application was sent to the Tenants as well in advance of the hearing as well as documents advising all tenants of a change in building ownership.
3. The Tenants were not present to provide their submissions to the Landlord's request.
4. I find that the amendment sought by the Landlord will not prejudice the Tenants and the Landlord's request is granted to correct the record to reflect the current Landlord.

**L4 APPLICATION**

5. This application was filed pursuant to section 78 of the Residential Tenancies Act, 2006 (the 'Act'). Applications of this nature normally result in the Board issuing an eviction order without a hearing. However, this application was sent to a hearing because the

alleged payments made by the Tenants were unclear, hindering the issuance of the ex parte order.

6. The order provided that the Landlords could apply to the Board under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') without notice to the Tenants to terminate the tenancy and evict the Tenants if the Tenants did not meet certain condition(s) specified in the order.
7. At the hearing, the Landlord testified that as of the date of the L4 application (September 14, 2021), the Tenants failed to make the following payment as outlined on order SWL-46342-20 issued on April 22, 2021:
  - a) The rent in full on September 1, 2021; this amount was short paid by \$16.84.
8. The Landlord further testified that since this breach, the Tenants continued to breach by failing to pay the arrears of \$190.40 on or before September 15, 2021. To date, the Tenants are also in arrears for the rent for the period October 2021 – January 2022.
9. On January 17, 2022, interim order SWL-54963-21-IN was issued requiring the Landlord to file a copy of their account statement or ledger by January 19, 2022 which listed the payments received and rent charged from April 2021 – January 2022, as the one submitted at the hearing only included the period from September 2021 onwards.
10. The Board confirms receipt of this statement. Looking at this account statement, it appears that the Tenants made a lumpsum payment on August 13, 2021 by paying the full amount of arrears, reaching a zero balance; however, as of this date, the filing fee of \$186.00 remained owing to the Landlord, which is not reflected on the account statement.
11. Based on the uncontested evidence before me, I find that the Tenants were in breach of the order dated April 22, 2021; specifically, the Tenants failed to pay the rent for September 2021 in full and on or before September 1, 2021.
12. The previous application included a request for an order for the payment of arrears of rent. The resulting order required the Tenants to pay rent or some or all of the arrears of rent. Accordingly, in addition to eviction, the Landlords are entitled to request an order for the payment of arrears of rent and compensation.
13. The Tenants were ordered to pay \$3,401.40 for rent arrears and the costs related to the Landlord's application fee in Order SWL-46342-20. The amount that is still owing from that order is \$186.00 and that amount is included in this order. As a result, the previous order SWL-46342-20 is cancelled.
14. Since the date of the order, the Tenants have failed to pay the full rent that became owing for the period from September 1, 2021 to January 31, 2022.
15. The Landlords collected a rent deposit of \$825.00 from the Tenants and this deposit is still being held by the Landlords.
16. Interest on the rent deposit is owing to the Tenants for the period from May 9, 2020 to January 26, 2022.

17. I have considered all of the disclosed circumstances in accordance with subsection 83 of the Residential Tenancies Act, 2006 (RTA) and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The Landlord is unaware of any circumstances that would justify relief from eviction.
18. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

**It is ordered that:**

1. Order SWL-46342-20 issued on April 22, 2021 is cancelled.
2. The tenancy between the Landlords and the Tenants is terminated. The Tenants must move out of the rental unit on or before February 6, 2022.
3. The Tenants shall pay to the Landlord \$1,777.20\*. This amount represents the rent owing up to January 26, 2022 and the costs related to the application fee for the previous application, less the rent deposit and interest the Landlord owes on the rent deposit.
4. The Tenants shall also pay to the Landlord \$27.68 per day for compensation for the use of the unit starting January 27, 2022 to the date the Tenants move out of the unit.
5. If the Tenants do not pay the Landlord the full amount owing\* on or before February 6, 2022, the Tenants will start to owe interest. This will be simple interest calculated from February 7, 2022 at 2.00% annually on the balance outstanding.
6. If the unit is not vacated on or before February 6, 2022, then starting February 7, 2022, the Landlords 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 Landlords on or after February 7, 2022.



---

Sonia Anwar-Ali  
Member, Landlord and Tenant Board

**January 26, 2022**

**Date Issued**

South West-RO  
150 Dufferin Avenue, Suite 400, 4th Floor  
London ON N6A5N6

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 August 7, 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 the attached Summary of Calculations.

## Summary of Calculations

File Number: SWL-54963-21

### Amount the Tenant must pay

Reason for amount owing	Period	Amount
Amount owing from previous order or settlement plus New Arrears and New NSF cheque charges and related administration charges		\$2,603.04
Less Payments made to the Landlord between September 2021 – January 2022		\$1,670.00
Less the rent deposit:		-\$825.00
Less the interest owing on the rent deposit	May 9, 2020 to January 26, 2022	-\$0.84
Plus daily compensation owing for each day of occupation starting January 27, 2022		\$27.68 (per day)
<b>Total the Tenants must pay the Landlord:</b>		<b>\$1,777.20, + \$27.68 per day starting January 27, 2022</b>