



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

**File Number:** TNL-34862-21

**In the matter of:** BSMT, 310 SAINT FRANCIS AVENUE AVENUE  
WOODBIDGE ON L4H3G4

**Between:** Abdurashid Khalil

**and**

Anthony Casto  
Elisabetta Bilolta

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

**APR 25, 2022**

Landlord and Tenant Board

Landlord

Tenants

Abdurashid Khalil (the 'Landlord') applied for an order to terminate the tenancy and evict Anthony Casto and Elisabetta Bilolta (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by way of videoconference on March 28, 2022. The Landlord attended the hearing and was represented by Christina Nastas. The Tenant attended the hearing and was self-represented.

**Determinations:**

1. The Tenants have not paid the total rent the Tenants were required to pay for the period from July 7, 2021 to April 6, 2022. Because of the arrears, the Landlord served a Notice of Termination effective September 17, 2021.
2. The Landlord collected a rent deposit of \$1,500.00 from the Tenants and this deposit is still being held by the Landlord.
3. Interest on the rent deposit is owing to the Tenants for the period from February 2, 2019 to September 17, 2021.
4. The monthly rent is \$1,500.00 due and payable on the first of the month.
5. At the hearing the Tenant indicated that she paid between \$450.00 - \$500.00 on August 10, 2021 and that this payment was not credited on the Landlord's N4 notice or L1 application. The Landlord denies that these funds were received.
6. In *Mauti v. Gibbs, 2019 ONSC 3355 (CanLII)*, the Divisional Court held at paragraph 27 that while the Landlord bears the burden of proof in a rent arrears application, it is difficult for a landlord to prove a negative (i.e. non-payment of rent). Therefore, ". . .while

the ultimate persuasive burden never shifts, once a landlord denies receiving funds, the tenant will have an evidentiary burden or a chance to advance some evidence to positively prove that he or she paid rent.”

7. The Tenants did not submit any receipt of payment, bank records or confirmation from the Landlord that the funds were received. On a balance of probabilities, I find that the Tenants owe to the Landlord the full months rent for the month of August 2021. As stated, the Tenants provided no evidence supporting that payment was made and accepted by the Landlord.
8. The Tenant testified that she fell ill in August 2021 and as such was unable to work pay the rent. The Tenant stated that she is in the process of vacating the rental unit and anticipates that she will vacate on or before April 30, 2022.
9. The Landlord’s representative opposed the delay in termination arguing that the arrears if rent are substantial and that the Tenant made no good-faith payments since the filing of the application.
10. As of the date of this order being issued, the Tenant’s request is only five days away. The Tenant has experienced some unforeseen hardship and is still battling illness. As such, the Tenant will have to May 6, 2022 to vacate the rental unit, which is an additional six days to the Tenants request.
11. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenant and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

**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 May 6, 2022.
2. The Tenants shall pay to the Landlord \$10,364.96\*, which represents the amount of rent owing and compensation up to April 25, 2022, less the rent deposit and interest the Landlord owes on the rent deposit.
3. The Tenants shall also pay to the Landlord \$49.32 per day for compensation for the use of the unit starting April 26, 2022 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 May 6, 2022, the Tenants will start to owe interest. This will be simple interest calculated from May 7, 2022 at 2.00% annually on the balance outstanding.
6. If the unit is not vacated on or before May 6, 2022, then starting May 7, 2022, 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 May 7, 2022.
8. If, on or before May 6, 2022, the Tenants pay the amount of \$14,736.00\*\* to the Landlord or to the Board in trust, this order for eviction will be void. This means that the tenancy would not be terminated and the Tenants could remain in the unit. If this payment is not made in full and on time, 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 May 7, 2022 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.

**April 25, 2022**  
**Date Issued**



---

Fabio Quattrociochi  
Member, Landlord and Tenant Board

Toronto North-RO  
47 Sheppard Avenue East, Suite 700, 7th Floor  
Toronto ON M2N5X5

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 November 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 section A on the attached Summary of Calculations.

\*\* Refer to section B on the attached Summary of Calculations.

**Schedule 1  
SUMMARY OF CALCULATIONS**

File Number: TNL-34862-21

**A. Amount the Tenants must pay if the tenancy is terminated:**

<b>Reasons for amount owing</b>	<b>Period</b>	<b>Amount</b>
Arrears: (up to the termination date in the Notice of Termination)	July 7, 2021 to September 17, 2021	\$1,050.00
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	September 18, 2021 to April 25, 2022	\$10,850.40
Less the rent deposit:		-\$1,500.00
Less the interest owing on the rent deposit:	February 2, 2019 to September 17, 2021	-\$35.44
Amount owing to the Landlord on the order date: (total of previous boxes)		<b>\$10,364.96</b>
Additional costs the Tenants must pay to the Landlord:		\$186.00
Plus daily compensation owing for each day of occupation starting April 26, 2022:		\$49.32 (per day)
<b>Total the Tenants must pay the Landlord if the tenancy is terminated:</b>		<b>\$10,550.96, + \$49.32 per day starting April 26, 2022</b>

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

<b>Reasons for amount owing</b>	<b>Period</b>	<b>Amount</b>
Arrears:	July 7, 2021 to May 6, 2022	\$14,550.00
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 May 6, 2022	<b>\$14,736.00</b>