



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

**File Number:** SOL-24553-21

**In the matter of:** 204, 40 WEST AVENUE S  
HAMILTON ON L8N2S1

**Between:** DMS Property Management Ltd

Landlord

**and**

Kafya Jameel Esmayl  
Sabah Tofik Ibrahim

Tenants

DMS Property Management Ltd (the 'Landlord') applied for an order to terminate the tenancy and evict Kafya Jameel Esmayl and Sabah Tofik Ibrahim (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on December 14, 2021. Only the Landlord's Legal Representative, Paul Startek, attended the hearing. As of 10:16 a.m., the Tenants were not present or represented at the hearing although properly served with notice of this hearing by the Board.

The application is amended to show the total arrears owing is \$1,788.00 not \$929.00.

**Determinations:**

1. The Tenants have not paid the total rent the Tenants were required to pay for the period from August 1, 2021 to December 31, 2021. Because of the arrears, the Landlord served a Notice of Termination effective August 26, 2021.
2. The Tenants are in possession of the rental unit.
3. The lawful monthly rent is \$894.00.
4. The Tenants have made no payments since the application was filed.
5. The NSF cheque charges were not substantiated. Therefore, the claim was denied.
6. The Landlord collected a rent deposit of \$875.00 from the Tenants and this deposit is still being held by the Landlord.
7. Interest on the rent deposit is owing to the Tenants for the period from August 7, 2018 to December 31, 2020.

8. I have considered all of the disclosed circumstances in accordance with subsection 83 of the *Residential Tenancies Act, 2006* (RTA), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenants, and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The Landlord's attempts at negotiating a repayment agreement were unsuccessful as the Tenants made no payments after the application was filed.

**It is ordered that:**

1. Unless the Tenants void 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 January 15, 2022.
2. The Tenants shall pay to the Landlord \$3,696.47\*, which represents the amount of rent owing and compensation up to January 4, 2022, less the rent deposit and interest the Landlord owes on the rent deposit.
3. The Tenants shall also pay to the Landlord \$29.39 per day for compensation for the use of the unit starting January 5, 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 January 15, 2022, the Tenants will start to owe interest. This will be simple interest calculated from January 16, 2022 at 2.00% annually on the balance outstanding.
6. If the unit is not vacated on or before January 15, 2022, then starting January 16, 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 January 16, 2022.
8. If, on or before January 15, 2022, the Tenants pay the amount of \$5,550.00\*\* 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 January 16, 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.

**January 4, 2022**  
**Date Issued**

  
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Jitewa Edu  
Member, Landlord and Tenant Board

Southern-RO  
119 King Street West, 6th Floor  
Hamilton ON L8P4Y7

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 July 16, 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: SOL-24553-21**

**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)	August 1, 2021 to August 26, 2021	\$764.19
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	August 27, 2021 to January 4, 2022	\$3,850.09
Less the rent deposit:		-\$875.00
Less the interest owing on the rent deposit:	August 7, 2018 to December 31, 2020	-\$42.81
Amount owing to the Landlord on the order date: (total of previous boxes)		<b>\$3,696.47</b>
Additional costs the Tenants must pay to the Landlord:		\$186.00
Plus daily compensation owing for each day of occupation starting January 5, 2022:		\$29.39 (per day)
<b>Total the Tenants must pay the Landlord if the tenancy is terminated:</b>		<b>\$3,882.47, + \$29.39 per day starting January 5, 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:	August 1, 2021 to January 31, 2022	\$5,364.00
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 January 15, 2022	<b>\$5,550.00</b>

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