



Order under Section 69
Residential Tenancies Act, 2006

File Number: SWL-45582-20

In the matter of: 1, 444 STIRLING AVENUE S
KITCHENER ON N2M3J1

Between: Moya Jones Landlord

and

Justin Roteveel Tenants
Tiffany Fish

Moya Jones (the 'Landlord') applied for an order to terminate the tenancy and evict Justin Roteveel (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on April 15, 2021.

The Landlord, the Landlord's legal representative Kris Flores and Tiffany Fish ('TF'), who was named as a tenant on the application, attended the hearing.

The Tenant was not present or represented at any time during the hearing block.

Determinations:

Preliminary issue

1. Pursuant to subsection 87(1) of the *Residential Tenancies Act, 2006* (the 'Act'), the Board only has jurisdiction to order the payment of arrears of rent if "the tenant is in possession of the rental unit".
2. The Landlord and TF agreed that TF vacated the rental unit on August 1, 2020. The Landlord filed the application on September 10, 2020, after TF had vacated the unit. The result is that the Board does not have jurisdiction to address the Landlord's claim against TF. I have therefore amended the application to remove TF as a party.

Rent arrears

3. The Tenant has not paid the total rent the Tenant was required to pay for the period from June 1, 2020 to April 30, 2021. Because of the arrears, the Landlord served a Notice of Termination effective August 29, 2020.

4. The Landlord disclosed an e-mail message exchange that begins on April 5, 2021. The Landlord's agent asks the Tenant if he has completed his move because the Landlord would like to clean up and sanitize the property. The Tenant responds on April 6, 2021 that he has been moved out for months. This raised the issue of when the Tenant vacated the rental unit.
5. I accepted the Landlord's uncontested evidence that the April 6, 2021 e-mail from the Tenant was the first time the Landlord learned that the Tenant may not be in possession of the rental unit. I also accepted the Landlord's uncontested evidence that the Tenant had not returned the keys to the Landlord and that the Landlord did not secure vacant possession of the rental unit until after receiving the Tenant's e-mail on April 6, 2021. As the Tenant continued to exercise control over the rental unit because he continued to hold the keys, the Tenant vacated the rental unit on April 6, 2021.
6. The lawful monthly rent was \$1,589.00.
7. The Landlord collected a rent deposit of \$1,555.00 from the Tenant and this deposit is still being held by the Landlord.
8. Interest on the rent deposit is owing to the Tenant for the period from May 25, 2018 to August 29, 2020.

It is ordered that:

1. The tenancy is terminated as of April 6, 2021, the date the Tenant gave vacant possession of the rental unit to the Landlord.
2. The Tenant shall pay to the Landlord \$11,720.41, which represents the amount of rent owing and compensation up to April 6, 2021, less the rent deposit and interest the Landlord owes on the rent deposit.
3. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
4. If the Tenant does not pay the Landlord the full amount owing* on or before May 31, 2021, the Tenant will start to owe interest. This will be simple interest calculated from June 1, 2021 at 2.00% annually on the balance outstanding.

May 20, 2021
Date Issued

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



Douglas Wilkins
Member, Landlord and Tenant Board

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.

* Refer to section A on the attached Summary of Calculations.

**Schedule 1
SUMMARY OF CALCULATIONS**

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A. Amount the Tenant must pay as the tenancy is terminated:

Reasons for amount owing	Period	Amount
Arrears: (up to the termination date in the Notice of Termination)	June 1, 2020 to August 29, 2020	\$1,853.99
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	August 30, 2020 to April 6, 2021	\$11,492.80
Less the rent deposit:		-\$1,555.00
Less the interest owing on the rent deposit:	May 25, 2018 to August 29, 2020	-\$71.38
Amount owing to the Landlord on the order date: (total of previous boxes)		\$11,720.41
Additional costs the Tenant must pay to the Landlord:		\$186.00
Total the Tenant must pay the Landlord as the tenancy is terminated:		\$11,906.41

2021 CanLII 90176 (ON LTB)