



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

Citation: Mahajan v Yousuf, 2024 ONLTB 10879

Date: 2024-02-14

File Number: LTB-L-000125-23

In the matter of: 3478 ETERNITY WAY
OAKVILLE ON L6H0X9

Between: Ankur Mahajan
Neha Mahajan

And

Khalid Yousuf
Ti-shai Reid

I hereby certify this is a
true copy of an Order dated
MAR 6, 2024
M. Sawicki
Landlord and Tenant Board

Landlords

Tenants

Ankur Mahajan and Neha Mahajan (the 'Landlords') applied for an order to terminate the tenancy and evict Khalid Yousuf and Ti-shai Reid (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on December 5, 2023.

The Landlords and the Tenants attended the hearing.

Determinations:

1. The Tenants vacated the rental unit subsequent to the application being filed with the Board. As such, the only issue before me is arrears of rent. The Landlord A.M. claims that he discovered the unit vacant on February 17, 2023. Nonetheless, A.M. requests arrears up to April 30, 2023 because the Tenants failed to give 60 days notice to vacate in spite of having served a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenants assert they owe rent to the actual date the Tenants vacated on January 31, 2023.
2. In a situation where a Tenant vacates a rental unit as a result of a valid N4 notice, the Board has to determine on what date did a Tenant give vacant possession of the unit to the Landlord, for the purpose of calculating arrears. The Board's usual practice with respect to awarding rent arrears where a tenant vacates the rental unit after the landlord files the application, but before the hearing, is set out in Interpretation Guideline 11, which states:

In some cases, the evidence may establish that the tenant moved out of the rental unit after the application was filed, but before the hearing date. In that case, the Board's order will generally include a determination that the tenancy ended on the date the tenant moved out. Further, the order will generally: (1) end the tenancy effective the date the tenant

moved out of the rental unit without ordering enforcement through the Sheriff's Office; and (2) require the tenant to pay arrears up to the date specified in the termination notice, and lump sum compensation for use of the unit from the termination date in the notice to the date the tenancy ended.

3. Subsection 134(1.1) of the Residential Tenancies Act, 2006 (the 'Act') states:

No landlord shall, directly or indirectly, with respect to any rental unit, collect or require or attempt to collect or require from a former tenant of the rental unit any amount of money purporting to be rent in respect of,

- (a) any period after the tenancy has terminated and the tenant has vacated the rental unit; or*
- (b) any period after the tenant's interest in the tenancy has terminated and the tenant has vacated the rental unit.*

4. The Tenants assert that they vacated January 31, 2023. The Tenants testified, that on January 24, 2023 A.M. illegally entered their unit and demanded the return of the keys. The Tenants asserted that they told A.M. that they would vacate by the end of the month. That A.M. agreed and immediately left their unit.
5. While the impetus for the Tenants actual move out might have been what they allege to be an illegal entry, this point is irrelevant to my determination here.
6. The Landlord A.M. testified, that he received possession of the unit on February 17, 2023 when he received an e-mail from the Tenant advising that they vacated two weeks ago. The e-mail received was in response to the Landlords inquiry on when the Tenants would vacate as the keys had not been returned. A.M. further asserts that the Tenants to date, have failed to return the second set keys to the unit.
7. The Tenants testified that when they vacated on January 31, 2023 they did not notify the Landlords because they believed the Landlords were aware based on the January 24, 2023 discussion. The Tenants confirmed that the second set of keys were never returned because they felt shaken by the situation, although attempts to return the keys were made, all attempts fell through for one reason or another.
8. Based on all of the evidence adduced at the hearing, on a balance of probabilities I find that this tenancy terminated on February 17, 2023.
9. I accept the Landlords testimony that they were not aware that the Tenants vacated January 31, 2023. It was the Tenants direct testimony that they did not notify the Landlords that they had vacated and that they did not return the keys to the Landlord. I accept the Landlords testimony that they took possession of the unit only after having received the February 17, 2023 e-mail. Arrears of rent are therefore owing to February 17, 2023.
10. The Landlords 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.

11. The Tenants were in possession of the rental unit on the date the application was filed.
12. The Tenants vacated the rental unit on February 17, 2023. Rent arrears are calculated up to the date the Tenants vacated the unit.
13. The lawful rent is \$3,100.00. It was due on the 17th day of each month.
14. The Tenants have not made any payments since the application was filed.
15. The rent arrears owing to February 17, 2023 are \$6,401.92.
16. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
17. There is no last month's rent deposit.

It is ordered that:

1. The tenancy between the Landlords and the Tenants is terminated as of February 17, 2023, the date the Tenants moved out of the rental unit.
2. The Tenants shall pay to the Landlords \$6,587.92. 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. See Schedule 1 for the calculation of the amount owing.
3. If the Tenants does not pay the Landlords the full amount owing on or before March 17, 2024, the Tenants will start to owe interest. This will be simple interest calculated from March 18, 2024 at 7.00% annually on the balance outstanding.

March 6, 2024
Date Issued



Mayra Sawicki
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	\$6,401.92
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlords 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	- \$0.00
Less the amount of the interest on the last month's rent deposit	- \$0.00
Less the amount the Landlords 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 Landlords	\$6,587.92