



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

**File Number:** CEL-01991-21

**In the matter of:** BASEMENT, 22 LEOPARD GATE  
BRAMPTON ON L6R2J5

**Between:** Surinder Saini Landlords  
Jaswinder Chhilnae

**and**

Gurjot Gill Tenants  
Jane Doe  
Kulvir Gill  
Prabhjot Gill

Surinder Saini and Jaswinder Chhilnae (the 'Landlords') applied for an order to terminate the tenancy and evict Jane Doe, Gurjot Gill, Kulvir Gill and Prabhjot Gill (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe (L1 application). The Landlord also applied because the Tenant, another occupant of the rental unit or someone they permitted in the residential complex have substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlords in a residential complex that has three or fewer residential units (L2 application).

This application was heard by way of video conference on October 14, 2021. The Landlord Jaswinder Chhilnae attended the hearing and was represented by Manjit Garcha, Paralegal. The Tenant Kulvir Gill attended the hearing and was represented by Kiran Preet, Paralegal.

**Determinations:**

L1 application:

**Date the Tenants vacated**

1. The Landlords served the Tenants with an N4 Notice of Termination for rent arrears effective June 1, 2021.
2. The Landlord testified that the Tenants vacated the rental unit on July 17, 2021, and is seeking payment of arrears up to that date.
3. The Landlord testified that the keys were returned to the Landlord on July 17, 2021 and prior to this date, there had been no communication from the Tenants indicating that they were vacating the rental unit. The Landlord entered into evidence an email sent from the

Landlord's legal representative to the Tenant Kulvir Gill on July 17, 2021 stating, "this is to confirm that you have moved out today" (LL Exhibit #1).

4. The Tenant testified that they vacated the rental unit on June 27, 2021, and his son returned the keys to the Landlord by leaving the keys in the mailbox. The Tenant's son was not present at the hearing to testify and as such, the testimony is strictly heresy as the Tenant acknowledged that he was not present when his son allegedly returned the keys.
5. On a balance of probabilities, I find that the Tenants returned vacant possession to the Landlord on July 17, 2021, and are responsible for paying the rent up to that date. The Landlord's testimony was consistent throughout the hearing on the issue of when the Tenants vacated and was supported by a confirmation email sent to the Tenants on the day of vacating.
6. Of the four Tenants listed on the application, only one attended the hearing and confirmed that he was not the individual who returned the keys or advised the Landlord of vacating. The Tenants were unable to provide any supporting evidence showing that they vacated the rental unit on June 27, 2021, such correspondence with the Landlord regarding a vacate date. The Tenants did not submit any documentation showing that their address was changed or that mail was forwarded on or about June 27, 2021. The Tenants also submitted no documentation showing.

#### **Rent Arrears owing by the Tenants**

7. The monthly rent was \$1,600.00
8. The Landlord was not holding a last month's rent deposit.
9. The Landlord testified that the Tenants made no rent payments for the months of May, June and July 2021.
10. The Tenant testified that on May 1, 2021 they paid to the Landlord \$3,200.00 in cash. The Tenants did not submit any receipt of payment, bank records or confirmation from the Landlord that the funds were received. The Landlord denies that any funds were received.
11. 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."

12. On a balance of probabilities, I find that the Tenants owe to the Landlord rent for the months of May, June and July 2021. As stated, the Tenants provided no evidence supporting that payment was made and accepted by the Landlord. As such, the Tenants will be ordered to pay to the Landlord rent arrears from May 1 to July 17, 2021.

L2 application:

13. The Landlord requested that the L2 application be withdrawn. In accordance with subsection 200(4) of the Act, I consent to the withdrawal of the application.

**It is ordered that:**

1. The Tenancy is terminated effective July 17, 2021, the day possession was returned to the Landlord.
2. The Tenants shall pay to the Landlords \$4,072.20\*, which represents the amount of rent owing and compensation up to July 17, 2021.
3. The Tenants shall also pay to the Landlords \$201.00 for the cost of filing the application.
4. If the Tenants do not pay the Landlords the full amount owing\* on or before January 5, 2022, the Tenants will start to owe interest. This will be simple interest calculated from January 6, 2022 at 2.00% annually on the balance outstanding.

**December 20, 2021**  
**Date Issued**



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Fabio Quattrociochi  
Member, Landlord and Tenant Board

Central-RO  
3 Robert Speck Pkwy, 5th Floor  
Mississauga ON L4Z2G5

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

\* Refer to the attached Summary of Calculations.

**Schedule 1  
SUMMARY OF CALCULATIONS**

**File Number: CEL-01991-21**

**A. Amount the Tenants must pay:**

<b>Reasons for amount owing</b>	<b>Period</b>	<b>Amount</b>
Arrears: (up to the termination date in the Notice of Termination)	May 1, 2021 to June 1, 2021	\$1,652.60
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	June 2, 2021 to July 17, 2021	\$2,419.60
Amount owing to the Landlords on the order date:(total of previous boxes)		<b>\$4,072.20</b>
Additional costs the Tenants must pay to the Landlords:		\$201.00
<b>Total the Tenants must pay the Landlords.</b>		<b>\$4,273.20</b>

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