



Order under Section 69
Residential Tenancies Act, 2006

File Number: HOL-11966-21

In the matter of: 579, 365-5 ALBERT STREET
WATERLOO ON N2L0G7

Between: Kiran Kaur Bumra Landlord

and

Nicholas Andrew Newman Tenants
Nicole Jean Mac Millan

Kiran Kaur Bumra (the 'Landlord') applied for an order to terminate the tenancy and evict Nicole Jean Mac Millan and Nicholas Andrew Newman (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard via videoconference on December 15, 2021. The Landlord's legal representative, P. Bumra, and the Tenant, N. Mac Millan (NM) attended the hearing. NM states she was appearing on behalf of N. A. Newman (NN). NN was not present although properly served with notice of this hearing by the Board. NM declined the opportunity to speak with Tenant Duty Counsel before the hearing.

Determinations:

1. By way of background, this application involves a claim for rent arrears by a tenant against subtenants. The authority that allows the tenant to bring this application is found in section 99 and section 59 of the *Residential Tenancies Act, 2006* (the 'Act'). Section 99 states as follows:

The following provisions apply, with necessary modifications, with respect to a tenant who has sublet a rental unit, as if the tenant were the landlord and the subtenant were the tenant:

1. Sections 59 to 69, 87, 89 and 148.
2. Section 59 allows a landlord to give a notice of termination to a tenant if they fail to pay rent lawfully owing under a tenancy agreement.
3. It was undisputed that the parties entered into a subtenancy agreement for the period of May to August 2021. The subtenancy was supposed to end on August 31, 2021. The N4 notice was served on August 23, 2021, during the subtenancy.

4. The Tenants have not paid the total rent the Tenants were required to pay for the period from July 1, 2021 to December 31, 2021. Because of the arrears, the Landlord served a Notice of Termination effective September 7, 2021.
5. The Tenants are in possession of the rental unit.
6. The lawful monthly rent is \$1,700.00.
7. The Landlord is not holding a last month's rent deposit.
8. The Tenants have made no payments since the application was filed.
9. 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 Tenants, and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
10. Pursuant to section 83(6), I am required to consider whether the Landlord made attempts to negotiate a payment agreement with the Tenants. The Landlord submitted that five or six payment plans were presented to the Tenants. The Tenants did not dispute that a payment plan was presented. I am satisfied that the Landlord attempted to negotiate a payment agreement with the Tenants.
11. With respect to section 83(2), the Tenants submitted that the reason that they did not pay rent in full and on time was because NN got into a car accident in January 2021. They were supposed to receive insurance money, but they had not yet received it. Further, NM is on ODSP. They have a five-year-old daughter who they enrolled in school in the area. NM stated that they have been making efforts to look for units since the end of August, when the subtenancy ceased, but have been unsuccessful. When asked how much time they needed to vacate, NM stated that they need at least two months.
12. The Landlord submitted that she has been severely impacted by the Tenants arrears and continued occupancy. The Landlord had to get a part-time job to maintain the tenancy and had to give up an internship at her university as a result. She can no longer pay for the Tenants' arrears and has since received an N4 from the main landlord.
13. The prejudice to the Landlord in granting relief from eviction outweighs the prejudice to the Tenants. It would be unfair to the Landlord to continue to forego opportunities because the Tenants refused to vacate at the end of the subtenancy or pay any rent. Further, it is unclear what benefit would come from an additional two months of relief when NM's testimony was that they have been looking for alternative housing since August 2021. As such, the Tenants' request for relief is denied.

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 January 25, 2022.
2. The Tenants shall pay to the Landlord \$11,001.04*, which represents the amount of rent owing and compensation up to January 14, 2022.
3. The Tenants shall also pay to the Landlord \$55.89 per day for compensation for the use of the unit starting January 15, 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 25, 2022, the Tenants will start to owe interest. This will be simple interest calculated from January 26, 2022 at 2.00% annually on the balance outstanding.
6. If the unit is not vacated on or before January 25, 2022, then starting January 26, 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 26, 2022.
8. If, on or before January 25, 2022, the Tenants pay the amount of \$12,086.00** 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 26, 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 14, 2022
Date Issued



Camille Tancioco
Member, Landlord and Tenant Board

Head Office
777 Bay Street, 12th Floor
Toronto Ontario M5G2E5

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 26, 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**

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

Reasons for amount owing	Period	Amount
Arrears: (up to the termination date in the Notice of Termination)	July 1, 2021 to September 7, 2021	\$3,791.23
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	September 8, 2021 to January 14, 2022	\$7,209.81
Amount owing to the Landlord on the order date:(total of previous boxes)		\$11,001.04
Additional costs the Tenants must pay to the Landlord:		\$186.00
Plus daily compensation owing for each day of occupation starting January 15, 2022:		\$55.89 (per day)
Total the Tenants must pay the Landlord if the tenancy is terminated:		\$11,187.04, + \$55.89 per day starting January 15, 2022

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

Reasons for amount owing	Period	Amount
Arrears:	July 1, 2021 to January 31, 2022	\$11,900.00
Additional costs the Tenants must pay to the Landlord:		\$186.00
Total the Tenants must pay to continue the tenancy:	On or before January 25, 2022	\$12,086.00

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