

Order under Section 69
Residential Tenancies Act, 2006

File Number: TNL-33523-21

In the matter of: 125 POYNTZ AVENUE
TORONTO ON M2N1J3

Between: Zohreh Divani Landlord

and

Matthew Brown Tenants
Melanie Beattie

Zohreh Divani (the 'Landlord') applied for an order to terminate the tenancy and evict Matthew Brown and Melanie Beattie (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on October 18, 2021. The Landlord's Legal Representative, Lata Menon and the Landlord attended the hearing. As of 10:43 a.m., the Tenants were not present or represented at the hearing although properly served with notice of this hearing by the Board.

Determinations:

1. The Tenants have not paid the total rent the Tenants were required to pay for the period from February 1, 2021 to October 31, 2021. Because of the arrears, the Landlord served a Notice of Termination effective July 14, 2021.
2. The Landlord's claim for the period ending October 31, 2021 exceeds the Board's monetary jurisdiction of \$35,000.00. The Landlord indicated a desire to proceed with the hearing of the application and voluntarily waived the portion of the claim that exceeds the Board's monetary jurisdiction.
1. The Tenants are in possession of the rental unit.
2. The lawful monthly rent is \$7,995.00.
3. The Tenants have made no payments since the application was filed.
3. The Landlord collected a rent deposit of \$7,995.00 from the Tenants and this deposit is still being held by the Landlord.

4. Interest on the rent deposit is owing to the Tenants for the period from September 28, 2020 to July 14, 2021.
5. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Residential Tenancies Act, 2006 (the 'Act'), and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

It is ordered that:

6. 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 December 4, 2021.
7. As of October 31, 2021, the Tenants shall pay to the Landlord \$63,349.74*, which represents the amount of rent owing and compensation up to November 23, 2021, less the rent deposit and interest the Landlord owes on the rent deposit. However, the Board is only authorized to order the Tenants to pay the maximum of its monetary jurisdiction of \$35,000.00. Therefore, the Tenant shall pay to the Landlord the amount of \$35,000.00.
8. The Tenants would normally be ordered to pay to the Landlord \$262.85 per day for compensation for the use of the unit starting November 24, 2021 to the date the Tenants move out of the unit. Having exceeded the Board's monetary jurisdiction of \$35,000.00 this amount of daily compensation will therefore not be ordered.
9. The Tenants would ordinarily be asked to pay to the Landlord \$186.00 for the cost of filing the application. Having exceeded the Board's monetary jurisdiction of \$35,000.00 the Tenants will not be ordered to pay the filing fee for the application.
10. If the Tenants do not pay the Landlord the full amount owing* on or before December 4, 2021, the Tenants will start to owe interest. This will be simple interest calculated from December 5, 2021 at 2.00% annually on the balance outstanding.
11. If the unit is not vacated on or before December 4, 2021, then starting December 5, 2021, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
12. 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 December 5, 2021.
13. If the Tenants wish to void this order and continue the tenancy, the Tenants must pay to the Landlord or to the Board in trust the amount of \$35,000.00 which is the maximum limit of the Boards jurisdiction. This payment must be made by December 4, 2021. (If the Boards monetary jurisdiction had not been \$35,000.00 the Tenants would have to make the following payments to void the order and continue the tenancy:
 - i) \$73,136.00 if the payment is made on or before November 30, 2021, or
 - ii) \$81,131.00 if the payment is made on or before December 4, 2021**.If the Tenants do not make full payment in accordance with this paragraph and by the

appropriate deadline, then the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.

14. 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 December 5, 2021 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.



Greg Brocanier
Member, Landlord and Tenant Board

November 23, 2021
Date Issued

Toronto North-RO
47 Sheppard Avenue East, Suite 700, 7th Floor
Toronto ON M2N5X5

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 June 5, 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: TNL-33523-21

2021 CanLII 147655 (ON LTB)

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)	February 1, 2021 to July 14, 2021	\$36,654.89
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	July 15, 2021 to November 23, 2021	\$34,696.20
Less the rent deposit:		-\$7,995.00
Less the interest owing on the rent deposit:	September 28, 2020 to July 14, 2021	-\$6.35
Amount owing to the Landlord on the order date: (total of previous boxes)		\$63,349.74
Additional costs the Tenants must pay to the Landlord:		\$186.00
Plus daily compensation owing for each day of occupation starting November 24, 2021:		\$262.85 (per day)
Total the Tenants must pay the Landlord if the tenancy is terminated:		\$35,000.00 Board's monetary jurisdiction

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

1. If the payment is made on or before November 30, 2021:

Reasons for amount owing	Period	Amount
Arrears:	February 1, 2021 to November 30, 2021	\$72,950.00
Additional costs the Tenants must pay to the Landlord:		\$186.00
Total the Tenants must pay to continue the tenancy:	On or before November 30, 2021	\$35,000.00 Boards monetary jurisdiction

2. If the payment is made after November 30, 2021 but on or before December 4, 2021:

Reasons for amount owing	Period	Amount
Arrears:	February 1, 2021 to December 31, 2021	\$80,945.00
Additional costs the Tenants must pay to the Landlord:		\$186.00
Total the Tenants must pay to continue the tenancy:	On or before December 4, 2021	\$25,000.00 Boards monetary jurisdiction