



Order under Section 69
Residential Tenancies Act, 2006

File Number: SOL-19719-21

In the matter of: 301, 160 MARKET STREET
HAMILTON ON L8R3J6

Between: DMS Property Management Ltd.

Landlord

and

Tara Atkin

Tenant

DMS Property Management Ltd. (the 'Landlord') applied for an order to terminate the tenancy and evict Tara Atkin (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on September 28, 2021. Only the Landlord's Legal Representative, Frank Calcagni, attended the hearing. As of 10:22 a.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the Board.

Determinations:

1. The Tenant has not paid the total rent the Tenant was required to pay for the period from June 1, 2020 to September 30, 2021. Because of the arrears, the Landlord served a Notice of Termination effective January 5, 2021.
2. The Tenant is in possession of the rental unit.
3. The lawful monthly rent is \$790.10.
4. The Landlord is not holding a last month's rent deposit.
5. The Tenant has made no payments since the application was filed.
6. I have considered all of the disclosed circumstances in accordance with subsection 83 of the *Residential Tenancies Act, 2006* (RTA), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenant, and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

It is ordered that:

1. Unless the Tenant voids the order as set out below, the tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before October 23, 2021.

2. The Tenant shall pay to the Landlord **\$12,009.90***, which represents the amount of rent owing and compensation up to October 12, 2021.
3. The Tenant shall also pay to the Landlord **\$25.98** per day for compensation for the use of the unit starting October 13, 2021 to the date the Tenant moves out of the unit.
4. The Tenant shall also pay to the Landlord **\$186.00** for the cost of filing the application.
5. If the Tenant does not pay the Landlord the full amount owing* on or before October 23, 2021, the Tenant will start to owe interest. This will be simple interest calculated from October 24, 2021 at 2.00% annually on the balance outstanding.
6. If the unit is not vacated on or before October 23, 2021, then starting October 24, 2021, 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 October 24, 2021.
8. If, on or before October 23, 2021, the Tenant pays the amount of **\$12,692.62**** 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 Tenant 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 Tenant may make a motion to the Board under subsection 74(11) of the Act to set aside this order if the Tenant pays the amount required under that subsection on or after October 24, 2021 but before the Sheriff gives vacant possession to the Landlord. The Tenant is only entitled to make this motion once during the period of the tenancy agreement with the Landlord.

October 12, 2021
Date Issued

Michael Di Salle

Michael Di Salle
 Member, Landlord and Tenant Board

Southern-RO
 119 King Street West, 6th Floor
 Hamilton ON L8P4Y7

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 April 24, 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: SOL-19719-21

A. Amount the Tenant must pay if 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 January 5, 2021	\$4,735.50
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	January 6, 2021 to October 12, 2021	\$7,274.40
Amount owing to the Landlord on the order date: (total of previous boxes)		\$12,009.90
Additional costs the Tenant must pay to the Landlord:		\$186.00
Plus daily compensation owing for each day of occupation starting October 13, 2021:		\$25.98 (per day)
Total the Tenant must pay the Landlord if the tenancy is terminated:		\$12,195.90, + \$25.98 per day starting October 13, 2021

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

Reasons for amount owing	Period	Amount
Arrears:	June 1, 2020 to October 31, 2021	\$12,506.62
Additional costs the Tenant must pay to the Landlord:		\$186.00
Total the Tenant must pay to continue the tenancy:	On or before October 23, 2021	\$12,692.62

2021 CanLII 142380 (ON LTB)