

Order under Section 69
Residential Tenancies Act, 2006

File Number: SOL-96045-18

In the matter of: BASEMENT UNIT, 46 BEACONSFIELD DRIVE
HAMILTON ON L8T2W9

Between: Julie Vance Landlords
John Kiely

and

Sarah Mcgillivray Tenant

Julie Vance and John Kiely (the 'Landlords') applied for an order to terminate the tenancy and evict Sarah Mcgillivray (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard in Hamilton on September 18, 2018. The Landlords attended the hearing. As of 10:20 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 August 1, 2018 to September 30, 2018. Because of the arrears, the Landlords served a Notice of Termination effective August 16, 2018.
2. The Tenant is in possession of the rental unit.
3. The monthly rent is \$1,495.00.
4. The Tenant has made no payments since the application was filed.
5. The Landlords collected a rent deposit of \$1,495.00 from the Tenant and this deposit is still being held by the Landlords.
6. Interest on the rent deposit is owing to the Tenant for the period from December 1, 2017 to August 16, 2018.
7. 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:

1. Unless the Tenant voids the order as set out below, the tenancy between the Landlords and the Tenant is terminated. The Tenant must move out of the rental unit on or before October 1, 2018.
2. The Tenant shall pay to the Landlords \$992.57*, which represents the amount of rent owing and compensation up to September 20, 2018, less the rent deposit and interest the Landlords owe on the rent deposit.
3. The Tenant shall also pay to the Landlords \$49.15 per day for compensation for the use of the unit starting September 21, 2018 to the date the Tenant moves out of the unit.
4. The Tenant shall also pay to the Landlords \$175.00 for the cost of filing the application.
5. If the Tenant does not pay the Landlords the full amount owing* on or before October 1, 2018, the Tenant will start to owe interest. This will be simple interest calculated from October 2, 2018 at 3.00% annually on the balance outstanding.
6. If the unit is not vacated on or before October 1, 2018, then starting October 2, 2018, the Landlords 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 Landlords, on or after October 2, 2018.
8. If the Tenant wishes to void this order and continue the tenancy, the Tenant must pay to the Landlords or to the Board in trust:
 - i) \$3,165.00 if the payment is made on or before September 30, 2018, or
 - ii) \$4,660.00 if the payment is made on or before October 1, 2018**.If the Tenant does not make full payment in accordance with this paragraph and by the appropriate deadline, then the Landlords 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 they pay the amount required under that subsection on or after October 2, 2018 but before the Sheriff gives vacant possession to the Landlords. The Tenant is only entitled to make this motion once during the period of the tenancy agreement with the Landlords.

September 20, 2018
Date Issued

Sean Henry
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 2, 2019 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 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)	August 1, 2018 to August 16, 2018	\$786.41
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	August 17, 2018 to September 20, 2018	\$1,720.25
Less the rent deposit:		-\$1,495.00
Less the interest owing on the rent deposit:	December 1, 2017 to August 16, 2018	-\$19.09
Amount owing to the Landlords on the order date: (total of previous boxes)		\$992.57
Additional costs the Tenant must pay to the Landlords:		\$175.00
Plus daily compensation owing for each day of occupation starting September 21, 2018:		\$49.15 (per day)
Total the Tenant must pay the Landlords if the tenancy is terminated:		\$1,167.57, + \$49.15 per day starting September 21, 2018

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

1. If the payment is made on or before September 30, 2018:

Reasons for amount owing	Period	Amount
Arrears:	August 1, 2018 to September 30, 2018	\$2,990.00
Additional costs the Tenant must pay to the Landlords:		\$175.00
Total the Tenant must pay to continue the tenancy:	On or before September 30, 2018	\$3,165.00

2. If the payment is made after September 30, 2018 but on or before October 1, 2018:

Reasons for amount owing	Period	Amount
Arrears:	August 1, 2018 to October 31, 2018	\$4,485.00
Additional costs the Tenant must pay to the Landlords:		\$175.00
Total the Tenant must pay to continue the tenancy:	On or before October 1, 2018	\$4,660.00