



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

**File Number:** SOL-24033-21

**In the matter of:** 104, 6 1/2 SMYTHE (BUILDING B) STREET  
ST CATHARINES ON L2P2G8

**Between:** Valley Wood Apartments Landlord

**and**

Joseph Di Michele Tenant

Valley Wood Apartments (the 'Landlord') applied for an order to terminate the tenancy and evict Joseph Di Michele (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, L. Barder, attended the hearing. As of 10:12 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 July 1, 2021 to September 30, 2021. Because of the arrears, the Landlord served a Notice of Termination effective August 16, 2021.
2. The Tenant is in possession of the rental unit.
3. The lawful monthly rent is \$1,550.00.
4. The Tenant has made no payments since the application was filed.
5. The Landlord collected a rent deposit of \$1,500.00 from the Tenant and this deposit is still being held by the Landlord.
6. Interest on the rent deposit is owing to the Tenant for the period from December 1, 2020 to August 16, 2021.
7. 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 30, 2021.
2. The Tenant shall pay to the Landlord \$3,125.72\*, which represents the amount of rent owing and compensation up to October 19, 2021, less the rent deposit and interest the Landlord owes on the rent deposit.
3. The Tenant shall also pay to the Landlord \$50.96 per day for compensation for the use of the unit starting October 20, 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 30, 2021, the Tenant will start to owe interest. This will be simple interest calculated from October 31, 2021 at 2.00% annually on the balance outstanding.
6. If the unit is not vacated on or before October 30, 2021, then starting October 31, 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 31, 2021.
8. If, on or before October 30, 2021, the Tenant pays the amount of \$5,386.00\*\* 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 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 they pay the amount required under that subsection on or after October 31, 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.



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Nicola Mulima  
Member, Landlord and Tenant Board

**October 19, 2021**  
**Date Issued**

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 30, 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-24033-21**

2021 CanLII 139290 (ON LTB)

**A. Amount the Tenant must pay if the tenancy is terminated:**

<b>Reasons for amount owing</b>	<b>Period</b>	<b>Amount</b>
Arrears: (up to the termination date in the Notice of Termination)	July 1, 2021 to August 16, 2021	\$1,365.34
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	August 17, 2021 to October 19, 2021	\$3,261.44
Less the rent deposit:		-\$1,500.00
Less the interest owing on the rent deposit:	December 1, 2020 to August 16, 2021	-\$1.06
Amount owing to the Landlord on the order date: (total of previous boxes)		<b>\$3,125.72</b>
Additional costs the Tenant must pay to the Landlord:		\$186.00
Plus daily compensation owing for each day of occupation starting October 20, 2021:		\$50.96 (per day)
<b>Total the Tenant must pay the Landlord if the tenancy is terminated:</b>		<b>\$3,311.72, + \$50.96 per day starting October 20, 2021</b>

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

<b>Reasons for amount owing</b>	<b>Period</b>	<b>Amount</b>
Arrears:	July 1, 2021 to October 31, 2021	\$5,200.00
Additional costs the Tenant must pay to the Landlord:		\$186.00
<b>Total the Tenant must pay to continue the tenancy:</b>	On or before October 30, 2021	<b>\$5,386.00</b>