



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

Citation: Dulava v Novak, 2024 ONLTB 28998

Date: 2024-04-23

File Number: LTB-L-091383-23

In the matter of: 2, 514 CARON AVE
WINDSOR ON N9A5B4

Between: Dragoslav Dulava

And

Trezur Novak
Gregory Charles Pigeon

I hereby certify this is a
true copy of an Order dated
APR 23, 2024
Landlord and Tenant Board

Landlord

Tenants

Dragoslav Dulava (the 'Landlord') applied for an order to terminate the tenancy and evict Trezur Novak and Gregory Charles Pigeon (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on April 9, 2024.

Only the Landlord attended the hearing.

As of approximately 11:45 a.m., the Tenants were not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenants did not void the notice by paying the amount of rent arrears owing by the termination date in the N4 Notice or before the date the application was filed.
2. As of the hearing date, the Tenants were still in possession of the rental unit.
3. The lawful rent is \$1,700.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$55.89. This amount is calculated as follows: \$1,700.00 x 12, divided by 365 days.
5. The Tenants have not made any payments since the application was filed.
6. The rent arrears owing to April 30, 2024 are \$11,900.00.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

8. The Landlord collected a rent deposit of \$1,700.00 from the Tenants and this deposit is still being held by the Landlord. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
9. Interest on the rent deposit, in the amount of \$22.59 is owing to the Tenants for the period from September 29, 2023 to April 9, 2024.
10. The Landlord testified that he had tried to help the Tenants who had come to him from the Welcome Centre. He stated that after 2 months, they ceased paying rent. He stated that before he issued the N4 Notice to the Tenants, he offered that they could end the tenancy without penalty, but they declined.
11. As the Tenants did not attend the hearing, I do not have benefit of submission with respect to the timing of the eviction. The Landlord indicated that there are 2 children residing in the rental unit, aged approximately 4 and 6.
12. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and because of the children in the rental unit, I find that it would not be unfair to postpone the eviction until May 18, 2024 pursuant to subsection 83(1)(b) of the Act.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants void this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$12,086.00 if the payment is made on or before April 30, 2024. See Schedule 1 for the calculation of the amount owing.

OR

 - \$13,786.00 if the payment is made on or before May 18, 2024. See Schedule 1 for the calculation of the amount owing.
3. The Tenants may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenants have paid the full amount owing as ordered plus any additional rent that became due after May 18, 2024 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.
4. **If the Tenants do not pay the amount required to void this order the Tenants must move out of the rental unit on or before May 18, 2024**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$9,166.42. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenants. See Schedule 1 for the calculation of the amount owing.
6. The Tenants shall also pay the Landlord compensation of \$55.89 per day for the use of the unit starting April 10, 2024 until the date the Tenants move out of the unit.

7. If the Tenants do not pay the Landlord the full amount owing on or before May 18, 2024, the Tenants will start to owe interest. This will be simple interest calculated from May 19, 2024 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before May 18, 2024, then starting May 19, 2024, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
9. 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 May 19, 2024.

April 23, 2024

Date Issued



Margo den Haan

Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
Toronto ON M7A 2G6

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 November 19, 2024 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.

**Schedule 1
SUMMARY OF CALCULATIONS**

A. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before April 30, 2024

Rent Owing To April 30, 2024	\$11,900.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Total the Tenant must pay to continue the tenancy	\$12,086.00

B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before May 18, 2024

Rent Owing To May 31, 2024	\$13,600.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Total the Tenant must pay to continue the tenancy	\$13,786.00

C. Amount the Tenant must pay if the tenancy is terminated

Rent Owing To Hearing Date	\$10,703.01
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$1,700.00
Less the amount of the interest on the last month's rent deposit	- \$22.59
Total amount owing to the Landlord	\$9,166.42
Plus daily compensation owing for each day of occupation starting April 10, 2024	\$55.89 (per day)