



Order under Section 69
Residential Tenancies Act, 2006

File Number: TEL-11077-20

In the matter of: Basement, 1043 RATHMORE CRESCENT
PICKERING ON L1V 5A3

Between: Tetiana Shelest Landlords
Maryna Brovenko

and

Darryl McKenna Tenant

Tetiana Shelest and Maryna Brovenko (the 'Landlords') applied for an order to terminate the tenancy and evict Darryl McKenna (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes. The Landlords further sought termination based on landlords' own use.

This application was heard via video conference on April 13, 2021.

The Landlords attended the hearing. Landlord's Legal Representative Brett Lockwood attended the hearing. Amanda Allard, a lawful occupant of the relevant rental unit, attended the hearing.

Determinations:

1. The Tenant has not paid the total rent the Tenant was required to pay for the period from February 4, 2020 to May 3, 2021. Because of the arrears, the Landlords served a Notice of Termination effective May 14, 2020.
2. The Tenant is in possession of the rental unit.
3. The monthly rent is \$950.00.
4. The Tenant has made no payments since the application was filed.
5. The Landlords collected a rent deposit of \$950.00 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 March 4, 2019 to May 14, 2020.
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.

8. The Landlords sought to withdraw the L2 part of this combined application. As nothing is ordered on a withdrawal, and the Landlords are asking for the return of compensation paid under section 48.1 of the *Residential Tenancies Act, 2006*, I see it as more proper to dismiss the L2 based on landlords' own use. The Landlords called no evidence in support of the L2.
9. It is just and proper that the compensation paid to the Tenant, be re-paid to the Landlords. But the Landlords do not need another account receivable from a Tenant who has paid zero rent over a period of at least 15 months.
10. As such, nothing need be repaid by the Tenant, but the one month paid to the Tenant under section 48.1 of the Act shall be deemed to be a return of the Tenant's last month rent deposit.
11. The above deeming provision will not affect the period over which interest on that deposit will accrue.

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 June 6, 2021.
2. The Tenant shall pay to the Landlords \$14,942.12*, which represents the amount of rent owing and compensation up to May 26, 2021, less interest the Landlords owe on the rent deposit.
3. The Tenant shall also pay to the Landlords \$31.23 per day for compensation for the use of the unit starting May 27, 2021 to the date the Tenant moves out of the unit.
4. The Tenant shall also pay to the Landlords \$190.00 for the cost of filing the application.
5. If the Tenant does not pay the Landlords the full amount owing* on or before June 6, 2021, the Tenant will start to owe interest. This will be simple interest calculated from June 7, 2021 at 2.00% annually on the balance outstanding.
6. If the unit is not vacated on or before June 6, 2021, then starting June 7, 2021, 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 June 7, 2021.
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) \$15,390.00 if the payment is made on or before June 3, 2021, or
 - ii) \$16,340.00 if the payment is made on or before June 6, 2021**.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 June 7, 2021 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.



May 26, 2021
Date Issued

Donald MacVicar
Member, Landlord and Tenant Board

Toronto East-RO
2275 Midland Avenue, Unit 2
Toronto ON M1P3E7

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 December 7, 2021 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)	February 4, 2020 to May 14, 2020	\$3,193.56
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	May 15, 2020 to May 26, 2021	\$11,773.71
Less the rent deposit:		-0.00
Less the interest owing on the rent deposit:	March 4, 2019 to May 14, 2020	-\$25.15
Amount owing to the Landlords on the order date: (total of previous boxes)		\$14,942.12
Additional costs the Tenant must pay to the Landlords:		\$190.00
Plus daily compensation owing for each day of occupation starting May 27, 2021:		\$31.23 (per day)
Total the Tenant must pay the Landlords if the tenancy is terminated:		\$15,132.12 + \$31.23 per day starting May 27, 2021

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

1. If the payment is made on or before June 3, 2021:

Reasons for amount owing	Period	Amount
Arrears:	February 4, 2020 to June 3, 2021	\$15,200.00
Additional costs the Tenant must pay to the Landlords:		\$190.00
Total the Tenant must pay to continue the tenancy:		\$15,390.00

2. If the payment is made after June 3, 2021 but on or before June 6, 2021:

Reasons for amount owing	Period	Amount
Arrears:	February 4, 2020 to July 3, 2021	\$16,150.00
Additional costs the Tenant must pay to the Landlords:		\$190.00
Total the Tenant must pay to continue the tenancy:	On or before June 6, 2021	\$16,340.00