



Order under Section 69
Residential Tenancies Act, 2006

File Number: SWL-54519-21

In the matter of: LOWER UNIT, 3829 SEMINOLE STREET
WINDSOR ON N8Y1Y9

Between: Jian Lu

Landlord

and

Amber Rose Kimmerly
Tyler Hamilton

Tenants

I hereby certify this is a
true copy of an Order dated
APR 28 2022
K AKRAM
Landlord and Tenant Board

Jian Lu (the 'Landlord') applied for an order to terminate the tenancy and evict Amber Rose Kimmerly and Tyler Hamilton (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on March 31, 2022. The Landlord attended the hearing. As of 2:00 p.m., the Tenants were not present or represented at the hearing although properly served with notice of this hearing by the Board.

Determinations:

1. The Tenants have not paid the total rent the Tenants were required to pay for the period from August 1, 2021 to December 31, 2021. Because of the arrears, the Landlord served a Notice of Termination effective September 1, 2021.
2. The Tenants are in possession of the rental unit.
3. The lawful monthly rent is \$1,300.00 as of Feb 1, 2022.
4. The Landlord collected a rent deposit of \$1,800.00 from the Tenants and this deposit is still being held by the Landlord.
5. Interest on the rent deposit is owing to the Tenants for the period from July 16, 2021 to October 1, 2021.
6. The Tenants paid \$3,900.00 after the application was filed.
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 Tenants, 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 Tenants void the order as set out below, the tenancy between the Landlord and the Tenants is terminated. The Tenants must move out of the rental unit on or before May 9, 2022.
2. The Tenants shall pay to the Landlord \$7,196.34*, which represents the amount of rent owing and compensation up to April 28, 2022, less the rent deposit and interest the Landlord owes on the rent deposit.
3. The Tenants shall also pay to the Landlord \$42.74 per day for compensation for the use of the unit starting April 29, 2022 to the date the Tenants move out of the unit.
4. The Tenants shall also pay to the Landlord \$186.00 for the cost of filing the application.
5. If the Tenants do not pay the Landlord the full amount owing* on or before May 9, 2022, the Tenants will start to owe interest. This will be simple interest calculated from May 10, 2022 at 2.00% annually on the balance outstanding.
6. If the unit is not vacated on or before May 9, 2022, then starting May 10, 2022, 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 May 10, 2022.
8. If the Tenants wish to void this order and continue the tenancy, the Tenants must pay to the Landlord or to the Board in trust:
 - i) \$9,286.00 if the payment is made on or before April 30, 2022, or
 - ii) \$10,586.00 if the payment is made on or before May 9, 2022**.If the Tenants do not make full payment in accordance with this paragraph and by the appropriate deadline, then the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
9. The Tenants 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 May 10, 2022 but before the Sheriff gives vacant possession to the Landlord. The Tenants are only entitled to make this motion once during the period of the tenancy agreement with the Landlord.

April 28, 2022
Date Issued



Khalid Akram
Member, Landlord and Tenant Board

South West-RO
150 Dufferin Avenue, Suite 400, 4th Floor
London ON N6A5N6

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 10, 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: SWL-54519-21

A. Amount the Tenants must pay if the tenancy is terminated:

| Reasons for amount owing | Period | Amount |
|---|----------------------------------|--|
| Arrears: | August 1, 2021 to March 31, 2022 | \$11,700.00 |
| Less the amount the Tenants paid to the Landlord | | -\$3,900.00 |
| Plus compensation: | April 1, 2022 to April 28, 2022 | \$1,196.72 |
| Less the rent deposit: | | -\$1,800.00 |
| Less the interest owing on the rent deposit: | July 16, 2021 to October 1, 2021 | -\$0.38 |
| Amount owing to the Landlord on the order date: (total of previous boxes) | | \$7,196.34 |
| Additional costs the Tenants must pay to the Landlord: | | \$186.00 |
| Plus daily compensation owing for each day of occupation starting April 29, 2022: | | \$42.74 (per day) |
| Total the Tenants must pay the Landlord if the tenancy is terminated: | | \$7,382.34, + \$42.74 per day starting April 29, 2022 |

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

1. If the payment is made on or before April 30, 2022:

| Reasons for amount owing | Period | Amount |
|--|----------------------------------|-------------------|
| Arrears: | August 1, 2021 to April 30, 2022 | \$13,000.00 |
| Less the amount the Tenants paid to the Landlord: | | -\$3,900.00 |
| Additional costs the Tenants must pay to the Landlord: | | \$186.00 |
| Total the Tenants must pay to continue the tenancy: | On or before April 30, 2022 | \$9,286.00 |

2. If the payment is made after April 30, 2022 but on or before May 9, 2022:

| Reasons for amount owing | Period | Amount |
|--|--------------------------------|---------------|
| Arrears: | August 1, 2021 to May 31, 2022 | \$14,300.00 |
| Less the amount the Tenants paid to the Landlord: | | -\$3,900.00 |
| Additional costs the Tenants must pay to the Landlord: | | \$186.00 |
| Total the Tenants must pay to continue the tenancy: | On or before May 9, 2022 | \$10,586.00 |