



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

Citation: Pimentel v Kiss, 2023 ONLTB 16778

Date: 2023-01-25

File Number: LTB-L-034545-22

In the matter of: 2, 279 SOMERSET ST E
OTTAWA ON K1N6V7

Between: David Pimentel Landlord

And

Adrienne Kiss and Yannick Couture Tenant

David Pimentel (the 'Landlord') applied for an order to terminate the tenancy and evict Adrienne Kiss and Yannick Couture (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 19, 2023.

Only the Landlord attended the hearing.

As of 11:59 am, the Tenant was 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 Tenant with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenant 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. The Tenant was in possession of the rental unit on the date the application was filed.
3. The Tenant vacated the rental unit on December 8, 2022. Rent arrears are calculated up to the date the Tenant vacated the unit.
4. The lawful rent is \$1,800.00. It was due on the 1st day of each month.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to December 8, 2022 are \$11,623.44.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. There is no last month's rent deposit.

Mitigation

9. The Landlord's L1/L9 update sheet included arrears up to January 31, 2023.
10. As explained to the Landlord at the hearing, the Landlord is required to take reasonable steps to mitigate their loss once the Tenant vacated December 8, 2022.
11. Section 16 of the Act requires a party making a claim for compensation for a loss to take reasonable steps to minimize their loss. In this case, the Landlord had an obligation to take reasonable steps to rent out the unit on or soon after December 8, 2022 in order to minimize his vacancy loss.
12. The Landlord testified that the unit has not been listed as it required clean up following the Tenant's departure and that clean up was completed last week. He said the unit has not been advertised.
13. Based on the evidence before the Board, I am not satisfied, on a balance of probabilities, that the Landlord took reasonable steps to mitigate his vacancy loss. No documentary evidence was submitted to support the proposition that the rental unit was in such disrepair that it has taken several weeks to remediate. Additionally, no efforts have been made to list the unit, even during the remediation period in anticipation of a new tenancy.
14. As a result, I am not satisfied the Tenant owes the Landlord arrears of rent beyond the termination date of December 8, 2023.
15. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of December 8, 2022, the date the Tenant moved out of the rental unit
2. The Tenant shall pay to the Landlord \$11,809.44. This amount includes rent arrears owing up to the date the Tenant moved out of the rental unit and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
3. If the Tenant does not pay the Landlord the full amount owing on or before February 5, 2023, the Tenant will start to owe interest. This will be simple interest calculated from February 6, 2023 at 2.00% annually on the balance outstanding.

January 25, 2023
Date Issued

Dana Wren
Member, Landlord and Tenant Board

15 Grosvenor St, 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.

**Schedule 1
SUMMARY OF CALCULATIONS**

A. Amount the Tenant must pay as the tenancy is terminated

Rent Owing To Move Out Date	\$11,623.44
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 the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$0.00
Less the amount of the interest on the last month's rent deposit	- \$0.00
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlord	\$11,809.44