



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

Citation: Sadowski v Roberts, 2023 ONLTB 62152

Date: 2023-09-13

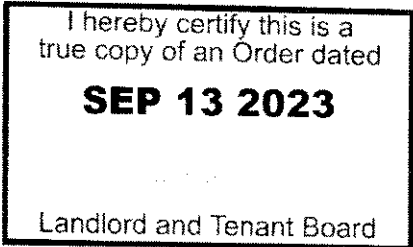
File Number: LTB-L-050395-22

In the matter of: 5, 448 GLEN MILLER RD  
TRENTON ON K8V5P8

Between: Wieslaw Sadowski

And

April Anne Roberts and Shane David Dishart



Landlord

Tenants

Wieslaw Sadowski (the 'Landlord') applied for an order to terminate the tenancy and evict April Anne Roberts and Shane David Dishart (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on March 27, 2023. Only the Landlord attended the hearing. 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. According to the Certificate of Service and the Landlord's testimony, the Notice of Termination N4 was served on the Tenants on August 5, 2022 by regular mail.
2. The Termination date on the N4 notice is August 19, 2022.
3. Section 59 (1) of the *Residential Tenancies Act*, 2006 (the 'Act') sets out the requirements for an N4 notice as follows:

59 (1) If a tenant fails to pay rent lawfully owing under a tenancy agreement, the landlord may give the tenant notice of termination of the tenancy effective not earlier than,

(a) the 7<sup>th</sup> day after the notice is given, in the case of a daily or weekly tenancy; and

(b) the 14<sup>th</sup> day after the notice is given, in all other cases.

4. The notice is deemed served 5 days after it is mailed as per section 191(3) of the Act. Thus, the notice of 14 days in this case should have started to run from August 11,


2022, rendering the earliest termination date as August 24, 2022.

5. Because the Tenants were not given the required 14-day notice for a monthly tenancy, the N4 notice does not comply with section 59(1)(b) of the Act and is therefore invalid.
6. The Landlord requested to amend the L1 application to an application for arrears only, without seeking eviction. I consented to the request to seek only arrears. There is no prejudice or unfairness to the Tenants since the N4 notice contemplates that arrears may be sought. The Landlord was aware that the Board's order would be only for arrears, which would have to be enforced in another jurisdiction such as small claims court in the event of any breach
7. As of the hearing date, the Tenants were still in possession of the rental unit.
8. The lawful rent is \$1,400.00. It is due on the 1st day of each month.
9. Based on the Monthly rent, the daily rent/compensation is \$46.03. This amount is calculated as follows: \$1,400.00 x 12, divided by 365 days.
10. The Tenants have not made any payments since the application was filed.
11. The rent arrears owing to March 31, 2023 are \$13,300.00.
12. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

**It is ordered that:**

1. The Tenants shall pay to the Landlord \$13,300 which represents the amount of rent owing up to March 31, 2023.
2. The Tenants shall also pay to the Landlord \$186.00 for the cost of filing the application.
3. If the Tenants do not pay the Landlord the full amount owing on or before September 24, 2023, the Tenants will start to owe interest. This will be simple interest calculated from September 25, 2023 at 6.00% annually on the balance outstanding.

**September 13, 2023**  
**Date Issued**

  
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**Donna Adams**  
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.