

Order under Section 69
Residential Tenancies Act, 2006

File Number: CEL-98414-21

In the matter of: 342 PANHELLENIC DRIVE
MISSISSAUGA ON L5J3T5

Between: Sohail Kayani Landlord

and

Amia Clarke Tenants
Jayreese Clarke
Tracy Clarke
Tyreq Clarke

Sohail Kayani (the 'Landlord') applied for an order to terminate the tenancy and evict Jayreese Clarke, Tracy Clarke, Tyreq Clarke and Amia Clarke (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe. The Landlord also claimed administration charges related to NSF cheques.

This application was heard via videoconference on June 14, 2021.

The Landlord, the Landlord's representative, Sibthey Hasnain and the Tenant's representative, P. Abdul (PA) attended the hearing.

Determinations:

1. The Tenants have not paid the total rent they were required to pay for the period from October 5, 2020 to July 4, 2021. Because of the arrears, the Landlord served a Notice of Termination effective December 20, 2020.
2. The Landlord incurred charges of \$60.00 for administration charges related to cheques tendered by or on behalf of the Tenants, which were returned NSF.
3. The Landlord collected a rent deposit of \$3,200.00 from the Tenants and this deposit is still being held by the Landlord.
4. Interest on the rent deposit is owing to the Tenants for the period from May 6, 2020 to December 20, 2020.
5. The Tenants have made no payments to the Landlord since the application was filed.

6. It is uncontested the total rent arrears and fees (NSF charges) and costs (\$186.00 filing fee) owing to the Landlord by the Tenants to July 04, 2021 is \$29046.00.
7. PA stated the Tenant was not working during the pandemic but recently returned to work. Consequently, she requested the Board impose a repayment plan that would allow her to pay the rent when it becomes due as well as and additional \$3200.00 towards rent arrears. He said her current income is approximately \$7000.00 per month and the children can also contribute towards the amount owed.
8. The Landlord was opposed to a repayment plan as the Tenants have made no payments since October 2020, the Tenants did not attend the hearing to provide evidence regarding employment and/or their ability to pay the rent and arrears. The Landlord has been paying the mortgage from his own pocket and believes anything other than a standard order would be unfairly prejudicial.
9. 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 not be unfair to grant relief from eviction subject to the condition(s) set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act. To reduce the prejudice to the Landlord, the relief is subject to section 78 of the Act which allows the Landlord to file for eviction if the Tenant misses any of the payments set out in this order.

It is ordered that:

1. The Tenants shall pay to the Landlord \$29046.00 representing rent arrears (\$28800.00), costs (\$186.00 filing fee) and fees (\$60.00 NSF charges) owing to July 04, 2021 upon the following terms:
 - Effective July 05, 2021 and on or before the 5th day of each consecutive month thereafter for a period of 9 consecutive months (up to and including March 05, 2022) the minimum sum of \$3200.00 (arrears).
 - On or before April 05, 2022, \$246.00 (fees and costs).
2. Effective July 05, 2021 and continuing on or before the fifth day in each consecutive month that follows, the Tenants shall pay the Landlord the full amount of the lawful monthly rent until the debt is paid in full.
3. In the event that the Tenants fail to make any of the above said payments in full and on time, the entire balance of the amount set out in this Order shall become due and payable forthwith under this Order. The Landlord shall be entitled to apply to the Board, no later than 30 days after a breach of this Order, without notice to the Tenants, for an order terminating the tenancy and evicting the Tenants and for any arrears that have become due after the date of this Order, pursuant to Section 78 of the Residential Tenancies Act, 2006.

June 28, 2021
Date Issued



Troy Rossignol
Member, Landlord and Tenant Board

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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.