

Order under Section 21.2 of the  
**Statutory Powers Procedure Act**  
and the **Residential Tenancies Act, 2006**

**File Number:** TNL-26596-20-RV

**In the matter of:** 817 CHURCHILL LANE  
WILLOW BEACH ON L0E1S0

**Between:** Anica Zelko Landlord

**and**

Alex Bakota Tenants  
Nicola Martin

2021 CanLII 91758 (ON LTB)

**Review Order**

Anica Zelko (the 'Landlord') applied for an order to terminate the tenancy and evict Nicola Martin and Alex Bakota (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was resolved by order TNL-26596-20 issued on April 07, 2021.

On April 09, 2021, the Landlord requested a review of the order and that the order be stayed until the request to review the order is resolved.

On April 14, 2021 interim order TNL-26596-20 -RV-IN was issued, staying the order issued on April 07, 2021.

The Landlord alleged the order contained a serious error, specifically in paragraph 2 of the order as the Tenants had not vacated the rental unit.

The request was heard via videoconference on May 18, 2021.

Only the Landlord's representative, Brent Lockwood attended the hearing. As of 1:45 p.m. the Tenants were not present or represented at the hearing although properly served with the notice of this hearing by the Board.

**Determinations - Review:**

1. On the basis of the submissions made in the request, the testimony of BL and a review of the Board file, including the L1/L9 update sheet, I am satisfied, on a balance of probabilities the order contains a serious error as there was no evidence before the

Board Member to lead to the finding the Tenants had vacated the rental unit on November 30, 2020. The hearing recording was not available for review.

2. The request to review order TNL-26596-20, issued on April 07, 2021 is granted. The application shall be heard de novo.

**Determinations – L1 Application:**

1. The Tenants have not paid the total rent they were required to pay for the period from January 1, 2020 to May 31, 2021. Because of the arrears, the Landlord served a Notice of Termination effective May 26, 2020.
2. The Tenants are in possession of the rental unit.
3. The monthly rent is \$1200.00.
4. The Landlord is not holding a last month's rent deposit.
5. The Tenants paid \$4,400.00 after the application was filed.
6. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (RTA), including the impact of COVID-19 on the parties and whether the Landlords 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. The request to review order TNL-26596-20 issued on April 07, 2021 is granted. The order is cancelled and replaced with this order.
2. Unless the Tenant voids 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 June 11, 2021.
3. The Tenants shall pay to the Landlord \$16,022.25\*, which represents the amount of rent owing and compensation up to May 31, 2021.
4. The Tenants shall also pay to the Landlord \$39.45 per day for compensation for the use of the unit starting June 1, 2021 to the date they move out of the unit.
5. The Tenants shall also pay to the Landlord \$175.00 for the cost of filing the application.
6. If the Tenants do not pay the Landlord the full amount owing\* on or before June 11, 2021, the Tenants will start to owe interest. This will be simple interest calculated from June 12, 2021 at 2.00% annually on the balance outstanding.

- 7. If the unit is not vacated on or before June 11, 2021, then starting June 12, 2021, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
- 8. 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 June 12, 2021.
- 9. If the Tenants wish to void this order and continue the tenancy, they must pay to the Landlord or to the Board in trust:
  - i) \$16,175.00 if the payment is made on or before May 31, 2021, or
  - ii) \$17,375.00 if the payment is made on or before June 11, 2021\*\*.
 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.
- 10. This order terminates the tenancy and permits the Landlord to file the order with Court Enforcement Office (Sheriff) to evict the Tenant. However, as of the date this order was issued, the Sheriff cannot enforce this order as a result of Ontario Regulation 266/21 made under the *Emergency Management and Civil Protection Act* on April 8, 2021. The Tenant cannot be evicted from the rental unit while this regulation is in force. Eviction by the Sheriff may occur after the regulation is removed by the Ontario Government. Further information is available on the LTB’s website.
- 11. 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 June 12, 2021 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.

**May 31, 2021**  
**Date Issued**




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Troy Rossignol  
Member, Landlord and Tenant Board

Toronto North-RO  
47 Sheppard Avenue East, Suite 700, 7th Floor  
Toronto ON M2N5X5

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 12, 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**

File Number: TNL-26596-20

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

Reasons for amount owing	Period	Amount
Arrears: (up to the termination date in the Notice of Termination)	January 1, 2020 to May 26, 2020	\$5,825.75
Less the amount the Tenants paid to the Landlord		-\$4,400.00
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	May 27, 2020 to May 31, 2021	\$14,596.50
Amount owing to the Landlord on the order date: (total of previous boxes)		<b>\$16,022.25</b>
Additional costs the Tenants must pay to the Landlord:		\$175.00
Plus daily compensation owing for each day of occupation starting June 1, 2021:		\$39.45 (per day)
<b>Total the Tenants must pay the Landlord if the tenancy is terminated:</b>		<b>\$16,197.25, + \$39.45 per day starting June 1, 2021</b>

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

**1. If the payment is made on or before May 31, 2021:**

Reasons for amount owing	Period	Amount
Arrears:	January 1, 2020 to May 31, 2021	\$20,400.00
Less the amount the Tenants paid to the Landlord:		-\$4,400.00
Additional costs the Tenants must pay to the Landlord:		\$175.00
<b>Total the Tenants must pay to continue the tenancy:</b>		<b>\$16,175.00</b>

2. If the payment is made after May 31, 2021 but on or before June 11, 2021:

<b>Reasons for amount owing</b>	<b>Period</b>	<b>Amount</b>
Arrears:	January 1, 2020 to June 30, 2021	\$21,600.00
Less the amount the Tenants paid to the Landlord:		-\$4,400.00
Additional costs the Tenants must pay to the Landlord:		\$175.00
<b>Total the Tenants must pay to continue the tenancy:</b>	On or before June 11, 2021	<b>\$17,375.00</b>

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