



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** Matti v Isaac, 2024 ONLTB 10944

**Date:** 2024-02-13

**File Number:** LTB-L-095464-23

**In the matter of:** 1282 CLEARWATER AVE  
WINDSOR ON N8P0E9

**Between:** Jemil Matti

**And**

Crystal Isaac  
Christopher Walker



Landlord

Tenants

Jemil Matti (the 'Landlord') applied for an order to terminate the tenancy and evict Crystal Isaac and Christopher Walker (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on February 1, 2024.

The Landlord, the Landlord's Legal Representative, Brenell Dean, and the Tenant, Crystal Isaac, attended the hearing. The Tenant did not speak to Tenant Duty Counsel prior to the hearing.

### Determinations:

#### The Board's monetary jurisdiction

1. The total amount owed by the Tenants to the Landlord exceeds the Board's monetary jurisdiction. Subsection 207(1) of the *Residential Tenancies Act, 2006* (the 'Act') limits the monetary jurisdiction of the Board to that of the Small Claims Court; that amount is \$35,000.00.
2. At the outset of the hearing, the Landlord's representative submitted that the Landlord agrees to waive any amount that exceeds the Boards monetary jurisdiction and agrees that the amount owing is limited to \$35,000.00, which is the monetary jurisdiction of the Board.

#### L1 Application

3. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Non-payment of Rent ('N4 Notice'). The Tenants 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.
4. As of the hearing date, the Tenants were still in possession of the rental unit.

5. The lawful rent is \$4,000.00. It is due on the 1st day of each month.
6. Based on the Monthly rent, the daily rent/compensation is \$131.51. This amount is calculated as follows: \$4,000.00 x 12, divided by 365 days.
7. The Tenants have not made any payments since the application was filed.
8. The rent arrears owing to February 19, 2024 are \$36,000.00.
9. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
10. The Landlord collected a rent deposit of \$4,000.00 from the Tenants and this deposit is still being held by the Landlord. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
11. Interest on the rent deposit, in the amount of \$103.01 is owing to the Tenants for the period from January 22, 2023 to February 1, 2024.

### Section 83 considerations

12. In his testimony, the Landlord stated he is a senior and suffers with several health issues. He stated the Tenants have not paid the monthly rent since April 2023 and the substantial rent arrears the Tenants owe is causing him great stress, anxiety, and health complications.
13. The Landlord's representative submitted a series of text messages between the Landlord and the Tenant, Crystal Isaac, as evidence. These text messages indicate that the Tenants were having issues with paying the rent in March 2023 and April 2023 and show the Landlord was trying to work with them by allowing them to pay the rent late.
14. The Landlord's representative also submitted a letter dated December 29, 2023 sent to the Tenants which explained the current rent arrears situation and that the Landlord was willing to accept their proposed payment plan. The Landlord's representative submitted that she did not receive a response to this letter by the Tenants.
15. The Landlord's representative submitted that the Landlord is seeking a standard 11-day eviction order. She submitted the rent arrears are substantial and the Tenants have made no good faith effort to pay any monies owing to the Landlord..
16. In her testimony, the Tenant stated she does not dispute the rent arrears owing to the Landlord and understands the rent needs to be paid. They are seeking to preserve their tenancy. She did not offer any reason as to why the rent has not been paid but stated she has five children and her spouse is not currently employed. They do not want to move and would like to preserve their tenancy.
17. The Tenant testified she is enrolled in a university four-year program and proposed that she would use a portion of her OSAP payment, in the amount of \$12,000.00, to pay down some of the rent arrears and continue on a payment plan of \$2,500.00 each month until the debt is paid to the Landlord. She further stated they receive a Child Tax Benefit of \$6,100.00 each month and she does foresee any issue with staying with a payment plan. The Tenant denied not responding to the Landlord's representative's letter and stated she called the office but she did not hear back from them. It was her belief that her proposed payment plan of paying \$6,000.00 per month was not accepted by the Landlord.

18. The Tenant testified she expects to receive \$30,000.00 from OSAP on February 28, 2024. She did not lead any evidence to support her claim that this payment would be received and when asked in cross-examination if they have any money saved, the Tenant testified they do not, she made some bad decisions and their monthly income over that past nine months has been depleted.
19. Based on the evidence and submissions before me, I find that this tenancy is no longer viable. The Tenants' proposed payment plan is speculative and with regard to the current monthly income, the monthly rent and the proposed monthly payment exceed this income. Although the Tenant testified she can receive outside support, there is no evidence before me that suggests this would be ongoing support through the proposed payment plan. The Tenants have made no good faith payments to the Landlord and have continued to be in arrears since May 2023. Moreover, the rent arrears are at the maximum monetary jurisdiction of the Board, and as such, it would be highly prejudicial to the Landlord to allow this tenancy to continue.
20. I have also considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act, including 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. The tenancy between the Landlord and the Tenants is terminated unless the Tenants void this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
  - \$35,186.00 if the payment is made on or before February 24, 2024. See Schedule 1 for the calculation of the amount owing.
3. The Tenants may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenants have paid the full amount owing as ordered plus any additional rent that became due after February 24, 2024 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.
4. **If the Tenants do not pay the amount required to void this order the Tenants must move out of the rental unit on or before February 24, 2024**
5. If the Tenants do not void the order, the Tenant shall pay to the Landlord \$29,792.62. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenants. See Schedule 1 for the calculation of the amount owing.
6. The Tenants shall also pay the Landlord compensation of \$131.51 per day for the use of the unit starting February 2, 2024 until the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before February 24, 2024, the Tenants will start to owe interest. This will be simple interest calculated from February 25, 2024 at 7.00% annually on the balance outstanding.

8. If the unit is not vacated on or before February 24, 2024, then starting February 25, 2024, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
9. 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 February 25, 2024.

**February 13, 2024**  
**Date Issued**

  
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Susan Priest  
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.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on August 25, 2024 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.

**Schedule 1  
SUMMARY OF CALCULATIONS**

**A. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before February 24, 2024**

Rent Owing To February 19, 2024	\$36,000.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Total the Tenants must pay to continue the tenancy (capped by the Board's monetary jurisdiction)</b>	<b>\$35,186.00</b>

**B. Amount the Tenants must pay if the tenancy is terminated**

Rent Owing To Hearing Date	\$33,709.63
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount of the last month's rent deposit	- \$4,000.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$103.01
<b>Total amount owing to the Landlord</b>	<b>\$29,792.62</b>
Plus daily compensation owing for each day of occupation starting February 2, 2024	\$131.51 (per day)