



Order under Section 69 Residential Tenancies Act, 2006

Citation: Matti v Isaac, 2023 ONLTB 74393

Date: 2023-11-16

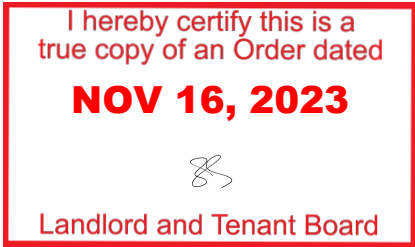
File Number: LTB-L-054247-23

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 October 17, 2023 and November 3, 2023.

On October 17, 2023, the Landlord Jemil Matti and the Landlord's Legal Representative John Muresan and the Tenants Crystal Isaac and Christopher Walker attended the hearing.

On November 3, 2023, the Landlord Jemil Matti and the Landlord's Legal Representative John Muresan and the Tenant Crystal Isaac attended the hearing.

Determinations:

1. The N4 notice served on the Tenants stipulates the monthly rent is \$4,500.00.
2. Page 9 of the lease agreement, titled "Lease Addition" is dated for January 20, 2023, the day the lease began. This addition provides:

From the rent money there will be a \$500.00 credit for each month that will be collected and given to the tenant after the tenant moves out under the following conditions:

- No property damage of any kind
- No painting allowed to the property
- No walls or doors added to any part of the property
- New appliances have been provided to the premises (refrigerator, range, dryer and washer)

The tenant is responsible for any physical damage if there is any damage or alterations as listed above, the credit will be used to repair the property to its original state and to repair or replace any appliances that have been physically damaged then if there is any remaining amount from the credit that was used for the repairs it will be given to the tenant when they move out.

3. After hearing submissions from the parties and considering sections 4(1) and 202(1) of the *Residential Tenancies Act, 2006* (the Act), I found the \$4,500.00 stipulated on the lease as the monthly rent had an ongoing security deposit payment in the amount of \$500.00 built into it. Security deposits are not permitted by the Act. Further, I did not find this \$500.00, ongoing monthly payment towards a security deposit met the definition of rent under section 2 of the Act which states:

“rent” includes the amount of any consideration paid or given or required to be paid or given by or on behalf of a tenant to a landlord or the landlord’s agent for the right to occupy a rental unit and for any services and facilities and any privilege, accommodation or thing that the landlord provides for the tenant in respect of the occupancy of the rental unit, whether or not a separate charge is made for services and facilities or for the privilege, accommodation or thing, but “rent” does not include,

(a) an amount paid by a tenant to a landlord to reimburse the landlord for property taxes paid by the landlord with respect to a mobile home or a land lease home owned by a tenant, or

(b) an amount that a landlord charges a tenant of a rental unit in a care home for care services or meals;

4. I found the lawful monthly rent is \$4,000.00 and not the \$4,500.00 stipulated on the N4 notice. As such, I determined the N4 notice to be invalid.
5. Based on my finding, the Landlord requested the consent of the Board to withdraw their application. Pursuant to section 200(4) of the), I consented to the withdrawal of the application.

It is ordered that:

1. The Landlord’s application is withdrawn. The Board’s file is closed.

November 16, 2023
Date Issued



John Cashmore
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.