



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

**Citation:** MACKINNON DEVELOPMENT CORPORATION v Downey-Milton, 2023 ONLTB 20638

**Date:** 2023-02-14

**File Number:** LTB-L-010853-22

**In the matter of:** 217, 67 NOTCH HILL RD KINGSTON  
ON K7M2W9

**Between:** MACKINNON DEVELOPMENT CORPORATION Landlord

**And**

Monica Downey-Milton and Tyler Gwilliam Tenants  
MACKINNON DEVELOPMENT CORPORATION (the 'Landlord') applied for an order to terminate the tenancy and evict Monica Downey-Milton and Tyler Gwilliam (the 'Tenants') because:

- the Tenants did not pay the rent that the Tenants owe (L1 application).
- the Tenants have been persistently late in paying the Tenants' rent
- the Tenants, another occupant of the rental unit or someone the Tenants permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant (L2 application).

The Landlord also claimed charges related to NSF cheques.

This application was heard by videoconference on January 12, 2023.

Only the Landlord's legal representative, Gregg Foss attended the hearing.

As of 11:52 a.m. the Tenants were not present or represented at the hearing.

**Determinations:**

1. The Landlord served the Tenants with a Notice to End Tenancy Early for Non-payment of Rent (N4 Notice).
2. The Tenants were in possession of the rental unit on the date the application was filed.
3. The Tenants vacated the rental unit on July 6, 2022.
4. The Landlord requested that the arrears of rent be calculated up to June 30, 2022.

5. The lawful rent is \$1,475.00. It was due on the 1st day of each month.
6. The Tenants have not made any payments since the application was filed.

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7. The rent arrears owing to June 30, 2022 are \$16,225.00.
8. The Landlord is entitled to \$280.00 to reimburse the Landlord for administration charges and \$98.00 for bank fees the Landlord incurred as a result of 14 cheques given by or on behalf of the Tenants which were returned NSF.
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 \$1,425.00 from the Tenants and this deposit is still being held by the Landlord. The rent deposit is applied to the arrears of rent because the tenancy terminated.
11. Interest on the rent deposit, in the amount of \$20.05 is owing to the Tenants for the period from April 29, 2021 to June 30, 2022.
12. As the Tenants have vacated the unit, the hearing of the L2 application is moot.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenant is terminated as of July 6, 2022, the date the Tenants moved out of the rental unit
2. The Tenants shall pay to the Landlord \$15,343.95. This amount includes rent arrears owing up to June 30, 2022, and the cost of filing the application and unpaid NSF charges. The rent deposit and interest the Landlord owes on the rent deposit is deducted from the amount owing by the Tenants. See Schedule 1 for the calculation of the amount owing.
3. If the Tenants do not pay the Landlord the full amount owing on or before February 25, 2023, the Tenants will start to owe interest. This will be simple interest calculated from February 26, 2023 at 5.00% annually on the balance outstanding.
4. The L2 application is dismissed.

**February 14, 2023**

**Date Issued**

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Debbie Mosaheb

Member, Landlord and Tenant Board

15 Grosvenor St, 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.

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**Schedule 1  
SUMMARY OF CALCULATIONS**

**A. Amount the Tenants must pay as the tenancy is terminated**

Rent Owing To Move Out Date	\$16,225.00
Application Filing Fee	\$186.00
NSF Charges	\$378.00
<b>Less</b> the amount of the last month's rent deposit	- \$1,425.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$20.05
<b>Total amount owing to the Landlord</b>	<b>\$15,343.95</b>

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