



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

**Citation:** McCarthy v Farley, 2023 ONLTB 75488

**Date:** 2023-11-17

**File Number:** LTB-L-025810-23 & LTB-T-055898-23

**In the matter of:** 602, 15 McMurrich St  
Toronto ON M5R3M6

**Between:** Michael McCarthy Landlord

**And**

Carmelle Lyght Farley, Michael Lyght, April Lyght and Annette Lyght Tenants

Michael McCarthy (the 'Landlord') applied for an order to terminate the tenancy and evict Carmelle Lyght Farley, Michael Lyght, April Lyght and Annette Lyght (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe. (Landlord's L1 Application LTB-L-025810-23)

The Tenants also applied for an order determining that the Landlord failed to meet the Landlord's maintenance obligations under the *Residential Tenancies Act, 2006* (the 'Act') or failed to comply with health, safety, housing or maintenance standards. (Tenants' T6 Application LTB-T-055898-23)

The Landlord also claimed charges related to NSF cheques.

This application was heard by videoconference on November 8, 2023.

The Landlord, the Landlord's Legal Representative, Sean Beard, the Landlord's Agent, Grace McSorley, and the Tenant, Carmelle Lyght Farley representing all the Tenants, attended the hearing.

**Determinations:**

Landlord's L1 Application

1. 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.
2. As of the hearing date, the Tenants were still in possession of the rental unit.
3. The lawful rent is \$3,397.16. It is due on the 1st day of each month.

4. Based on the Monthly rent, the daily rent/compensation is \$111.69. This amount is calculated as follows:  $\$3,397.16 \times 12$ , divided by 365 days.
5. The Tenants have not made any payments since the application was filed.
6. The rent arrears owing to November 30, 2023, are \$29,177.28.
7. The Landlord is entitled to \$20.00 to reimburse the Landlord for 1 cheque given by or on behalf of the Tenants which was returned NSF.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlord collected a rent deposit of \$3,275.00 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.
10. Interest on the rent deposit, in the amount of \$179.27 is owing to the Tenants for the period from February 23, 2020 to November 8, 2023.

Tenants' T6 application

11. The Tenants filed the application on July 28, 2023, alleging that the Landlord had failed to meet the Landlord's maintenance obligations under the *Residential Tenancies Act, 2006*.
12. However, the Tenants ignored Board order LTB-L-025810-23-IN dated August 11, 2023. The matter was first heard on July 31, 2023, and the order issued instructed the Tenants to pay the rent in full and on time, no later than the 4<sup>th</sup> day of each month, commencing August 4, 2023, and continuing until the application is resolved. The order also added that the Board may refuse to consider the Tenants' evidence and submissions as a result of the Tenants not complying with the order.
13. Since the Tenants have not paid any rent for more than 8 months and have not made any effort to rectify their situation, I have decided not to consider the Tenants' evidence as per the interim order issued on August 11, 2023. The Tenants were clearly given an opportunity, one which they did not take.
14. Therefore, having considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including whether the Landlord attempted to negotiate a repayment agreement with the Tenants, I 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:**

- **\$29,383.28** if the payment is made on or before November 28, 2023. 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 November 28, 2023, 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 November 28, 2023.**
  5. If the Tenants do not void the order, the Tenants shall pay to the Landlord **\$23,425.37**. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application and unpaid NSF charges. 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 **\$111.69** per day for the use of the unit starting November 9, 2023, 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 November 28, 2023, the Tenants will start to owe interest. This will be simple interest calculated from November 29, 2023, at 7.00% annually on the balance outstanding.
  8. If the unit is not vacated on or before November 28, 2023, then starting November 29, 2023, 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 November 29, 2023.

**November 17, 2023**  
**Date Issued**

*Michael Di Salle*  
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Michael Di Salle  
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 May 29, 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 November 28, 2023**

|   |                    |
|---|--------------------|
| Rent Owing To November 30, 2023   | \$29,177.28        |
| Application Filing Fee  | \$186.00           |
| NSF Charges   | \$20.00            |
| <b>Less</b> the amount the Tenants paid to the Landlord since the application was filed | - \$0.00           |
| <b>Less</b> the amount the Tenants paid into the LTB since the application was filed    | - \$0.00           |
| <b>Less</b> the amount the Landlord owes the Tenants for an{abatement/rebate}           | - \$0.00           |
| <b>Less</b> the amount of the credit that the Tenants are entitled to                   | - \$0.00           |
| <b>Total the Tenants must pay to continue the tenancy</b>                               | <b>\$29,383.28</b> |

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

|   |                       |
|---|-----------------------|
| Rent Owing To Hearing Date  | \$26,673.64           |
| Application Filing Fee  | \$186.00              |
| NSF Charges   | \$20.00               |
| <b>Less</b> the amount the Tenants paid to the Landlord since the application was filed | - \$0.00              |
| <b>Less</b> the amount the Tenants paid into the LTB since the application was filed    | - \$0.00              |
| <b>Less</b> the amount of the last month's rent deposit                                 | - \$3,275.00          |
| <b>Less</b> the amount of the interest on the last month's rent deposit                 | - \$179.27            |
| <b>Less</b> the amount the Landlord owes the Tenants for an {abatement/rebate}          | - \$0.00              |
| <b>Less</b> the amount of the credit that the Tenants are entitled to                   | - \$0.00              |
| <b>Total amount owing to the Landlord</b>   | <b>\$23,425.37</b>    |
| Plus daily compensation owing for each day of occupation starting November 9, 2023      | \$111.69<br>(per day) |