



Order under Section 69
Residential Tenancies Act, 2006

File Number: NOL-43138-21

In the matter of: 384 VAN HORNE STREET
SUDBURY ON P3B1J3

Between: Shivam Sharma Landlord

and

Stephan Kneller Tenants
Hanh Do

Shivam Sharma (the 'Landlord') applied for an order to terminate the tenancy and evict Stephan Kneller and Hanh Do (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by video conference on September 23, 2021 beginning at 1:00 p.m.

The Landlord's Agent, Joseph Hajek, and the Tenant, Stephan Kneller, attended the hearing. Stephane Kneller was representing both Tenants at the hearing.

Determinations:

1. The Tenants have not paid the total rent the Tenants were required to pay for the period from April 1, 2021 to September 30, 2021. Because of the arrears, the Landlord served a Notice of Termination effective May 26, 2021.
2. The Tenants are in possession of the rental unit.
3. The lawful monthly rent is \$1,900.00.
4. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
5. The Tenants have not paid any rent since the application was filed.
6. The rent arrears outstanding to September 30, 2021 total \$10,450.00.
7. The Landlord had collected a rent deposit of \$1,900.00 from the Tenants on October 1, 2019. It was discovered that the Landlord and not listed the rent deposit on the Landlord's

application to the Board. However, this omission was corrected at the hearing to reflect that this deposit is still being held by the Landlord on the Tenants' behalf.

8. Interest on the rent deposit is owing to the Tenants for the period from October 1, 2019 to May 26, 2021.
9. During the hearing, the Tenant submitted that he had issues with securing a legal representative to help him with this matter before the Board and had requested an adjournment to allow him more time.
10. The Landlord's Agent did not consent to an adjournment stating that the Tenant had plenty of time to try and find legal help due to the fact that notice of this hearing was given to the Tenant weeks before and that the Tenant was already aware of the significant arrears owing. The Landlord's Agent added that it was prejudicial to the Landlord to delay the proceedings any longer.
11. I find that given the evidence presented, the Tenant did have more than enough time to find legal help for these proceedings and that to delay the matter any longer would not be fair to either party financially.
12. Therefore, having considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), I also find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
13. This order contains all of the reasons in this matter and no further reasons will be issued.

It is ordered that:

1. Unless the Tenants void 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 October 10, 2021.
2. The Tenants shall pay to the Landlord **\$8,502.18***, which represents the amount of rent owing and compensation up to September 29, 2021, less the rent deposit and interest the Landlord owes on the rent deposit.
3. The Tenants shall also pay to the Landlord **\$62.47** per day for compensation for the use of the unit starting September 30, 2021 to the date the Tenants move out of the unit.
4. The Tenants shall also pay to the Landlord **\$186.00** for the cost of filing the application.
5. If the Tenants do not pay the Landlord the full amount owing* on or before October 10, 2021, the Tenants will start to owe interest. This will be simple interest calculated from October 11, 2021 at 2.00% annually on the balance outstanding.

6. If the unit is not vacated on or before October 10, 2021, then starting October 11, 2021, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
7. 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 October 11, 2021.
8. If the Tenants wish to void this order and continue the tenancy, the Tenants must pay to the Landlord or to the Board in trust:
 - i) **\$10,636.00** if the payment is made on or before September 30, 2021, or
 - ii) **\$12,536.00** if the payment is made on or before October 10, 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.
9. 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 October 11, 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.

2021 CanLII 124465 (ON LTB)

September 29, 2021
Date Issued

Michael Di Salle
Michael Di Salle
Member, Landlord and Tenant Board

Northern-RO
199 Larch Street, Provincial Building, Suite 301
Sudbury ON P3E5P9

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 April 11, 2022 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**

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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)	April 1, 2021 to May 26, 2021	\$2,574.11
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	May 27, 2021 to September 29, 2021	\$7,871.22
Less the rent deposit:		-\$1,900.00
Less the interest owing on the rent deposit:	October 1, 2019 to May 26, 2021	-\$43.15
Amount owing to the Landlord on the order date:(total of previous boxes)		\$8,502.18
Additional costs the Tenants must pay to the Landlord:		\$186.00
Plus daily compensation owing for each day of occupation starting September 30, 2021:		\$62.47 (per day)
Total the Tenants must pay the Landlord if the tenancy is terminated:		\$8,688.18, + \$62.47 per day starting September 30, 2021

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

1. If the payment is made on or before September 30, 2021:

Reasons for amount owing	Period	Amount
Arrears:	April 1, 2021 to September 30, 2021	\$10,450.00
Additional costs the Tenants must pay to the Landlord:		\$186.00
Total the Tenants must pay to continue the tenancy:	On or before September 30, 2021	\$10,636.00

2. If the payment is made after September 30, 2021 but on or before October 10, 2021:

Reasons for amount owing	Period	Amount
Arrears:	April 1, 2021 to October 31, 2021	\$12,350.00
Additional costs the Tenants must pay to the Landlord:		\$186.00
Total the Tenants must pay to continue the tenancy:	On or before October 10, 2021	\$12,536.00