



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

**Citation:** Zemer v Macaulay, 2023 ONLTB 16880

**Date:** 2023-01-31

**File Number:** LTB-L-031164-22

**In the matter of:** 2, 22 BALSAM AVE N  
HAMILTON ON L8L6Y2

**Between:** Avital Zemer, Frida Zemer and OLB MANGEMENT GROUP Landlords

**And**

Gordon Macaulay and Kelly Macaulay Tenants

Avital Zemer, Frida Zemer and OLB MANGEMENT GROUP (the 'Landlords') applied for an order to terminate the tenancy and evict Gordon Macaulay and Kelly Macaulay (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on January 19, 2023.

Only the Landlord, Frida Zemer attended the hearing.

As of 2:27 p.m., the Tenants were not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

**Determinations:**

1. The Landlords 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. The Tenants were in possession of the rental unit on the date the application was filed.
3. The Tenants vacated the rental unit on August 5, 2022. Rent arrears are calculated up to the date the Tenants vacated the unit.
4. The lawful rent is \$2,000.00. It was due on the 1st day of each month.
5. The Tenants have paid \$400.00 to the Landlords since the application was filed.
6. The rent arrears owing to August 5, 2022 are \$5,528.75.
7. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

8. The Landlords collected a rent deposit of \$2,000.00 from the Tenants and this deposit is still being held by the Landlords. The rent deposit is applied to the arrears of rent because the tenancy terminated.
9. Interest on the rent deposit, in the amount of \$10.39 is owing to the Tenants for the period from March 1, 2022 to August 5, 2022.

**It is ordered that:**

1. The tenancy between the Landlords and the Tenants is terminated as of August 5, 2022, the date the Tenants moved out of the rental unit
2. The Tenants shall pay to the Landlords \$3,704.36. This amount includes rent arrears owing up to the date the Tenants moved out of the rental unit and the cost of filing the application. The rent deposit and interest the Landlords 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 Landlords the full amount owing on or before February 11, 2023, the Tenants will start to owe interest. This will be simple interest calculated from February 12, 2023 at 5.00% annually on the balance outstanding.

**January 31, 2023**  
**Date Issued**

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.

**Schedule 1  
SUMMARY OF CALCULATIONS**

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

Rent Owing To Move Out Date	\$5,928.75
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenants paid to the Landlords since the application was filed	- \$400.00
<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	- \$2,000.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$10.39
<b>Less</b> the amount the Landlords owe 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 Landlords</b>	<b>\$3,704.36</b>

2023 ONL TB 16880 (CanLII)