



Order under Section 69 Residential Tenancies Act, 2006

Citation: Omayya Investments Inc. v Malik, 2024 ONLTB 4735

Date: 2024-01-17

File Number: LTB-L-062895-23

In the matter of: 405, 120 CARON AVE
Windsor ON N9A6W7

Between: Omayya Investments Inc. Landlord

And

Sumiaira Malik Tenants
Abbishell Pathna

Omayya Investments Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Sumiaira Malik and Abbishell Pathna (the 'Tenants') because the Tenants did not pay the rent that the Tenants owes.

This application was heard by videoconference on January 8, 2024.

The Landlord's representative, Tim Currie and the Tenants attended the hearing.

On consent, the parties requested a final, non-voidable termination of this tenancy based on their agreement to terminate the tenancy as of February 2, 2024. As a consequence, the Tenants do not have the option to void the eviction order under subsections 74(4) or 74(11) of the *Residential Tenancies Act, 2006* by paying the outstanding rent arrears. I was satisfied that the parties understood the consequence of their joint submission, including in relation to the termination of the tenancy.

Determinations:

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 \$1,379.61. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$45.36. This amount is calculated as follows: \$1,379.61 x 12, divided by 365 days.
5. The Tenants have paid \$1,000.00 to the Landlord since the application was filed.

6. The rent arrears owing to January 31, 2024 are \$8,744.98. The Tenant did not dispute the arrears owing to the Landlord
7. The Landlord has agreed to waive the rent owing for February 1 and 2, 2024.
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 \$1,300.00 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 \$51.57 is owing to the Tenants for the period from December 1, 2021 to January 8, 2024.
11. The total amount outstanding to January 31, 2024, inclusive of rent arrears (\$8,744.98) plus costs (\$186.00), less the rent on deposit and interest owing on the rent deposit (\$1,351.57) is \$7,573.41.

On consent, it is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated as of February 2, 2024. The Tenants must move out of the rental unit on or before February 2, 2024.
2. The Tenants shall pay the Landlord \$7,573.41, which represents rent arrears (\$8,744.98) plus costs (\$186.00), less the rent on deposit and interest owing on the rent deposit (\$1,351.57) outstanding to January 31, 2024.
3. If the Tenants do not pay the Landlord the full amount owing on or before February 2, 2024, the Tenants will start to owe interest. This will be simple interest calculated from February 3, 2024 at 7.00% annually on the balance outstanding.
4. If the unit is not vacated on or before February 2, 2024, then starting February 3, 2024, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
5. 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 February 3, 2024.

January 17, 2024

Date Issued

Camille Clyne

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 August 3, 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 as the tenancy is terminated as of February 2, 2024

Rent Owing To January 31, 2024	\$9,738.98
Application Filing Fee	\$186.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$1,000.00
Less the amount of the last month's rent deposit	- \$1,300.00
Less the amount of the interest on the last month's rent deposit	- \$51.57
Total amount owing to the Landlord	\$7,573.41
Plus daily compensation owing for each day of occupation starting January 9, 2024	\$45.36 (per day)

2024 ONLTB 4735 (CanLI)