



## Order under Section 69 Residential Tenancies Act, 2006

Citation: Villella v Gallo, 2024 ONLTB 1625

Date: 2024-01-11

File Number: LTB-L-007148-23

**In the matter of:** 7867 Martin Grove Rd.  
Woodbridge ON L4L2C9

**Between:** Antonio Villella Landlords  
Paolo Villella

**And**

Antonio Gallo Tenants  
Daniel Gallo

Antonio Villella and Paolo Villella (the 'Landlords') applied for an order to terminate the tenancy and evict Antonio Gallo and Daniel Gallo (the 'Tenants') because:

- the Tenants did not pay the rent that the Tenants owe (L1 Application); and
- the Tenants have been persistently late in paying the Tenants' rent (L2 Application).

This application was heard by videoconference on November 30, 2023.

Only the Landlords Antonio Villella and the Landlords' Witness Felicia Villella attended the hearing.

As of 10:10 AM, 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 Landlords' evidence.

**Determinations:**

1. The Landlords served the Tenants with a valid Notice to End Tenancy Early for Nonpayment 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 \$1,694.35. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$55.70. This amount is calculated as follows: \$1,694.35 x 12, divided by 365 days.
5. The Tenants have paid \$17,168.15 to the Landlords since the application was filed.
6. The rent arrears owing to November 30, 2023 are \$0.00.
7. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to grant relief from eviction pursuant to subsection 83(1)(a) of the Act.
9. Given that the Tenants have repaid all their arrears except the application filing fee, I find it would not be unfair to order the payment of the filing fee with interest owing if the Tenants default.

Late payment of rent

10. As explained below, the Landlords have proven on a balance of probabilities the grounds for termination of the tenancy. The Landlords are prepared to grant the Tenants relief from eviction in the form of a conditional order requiring rent to be paid on time for a period of 12 months. Given the Tenants were not present and that the L2 may have resulted in termination only, I saw no reason to deny this request.
11. The Tenants were in possession of the rental unit on the date the application was filed.
12. On January 23, 2023, the Landlords gave the Tenants an N8 notice of termination. The notice of termination alleges that the Tenants paid their rent late each month for the period of July 2022 – January 2023, for a total of seven months.
13. On the uncontested evidence of the Landlords, I find that the Tenants have persistently failed to pay the rent on the date it was due. The rent is due on the first day of each month. The rent has been paid late seven times in the twelve months preceding the service of the N8 notice of termination.
14. The Landlord testified that he had advised the Tenants that paying rent late was not acceptable. According to the Landlord, the Tenants still paid their rent late in March 2023, August 2023, and October 2023.

**It is ordered that:**

1. The Tenants shall pay the Landlords the monthly rent due on or before the 1st day of the month for the period of February 2024 to January 2025.

2. If the Tenants fail to comply with the conditions set out in paragraph 1 of this order, the Landlords may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenants. The Landlords must make the application within 30 days of a breach of a condition. This application is made to the LTB without notice to the Tenants.
3. The Tenants shall also pay to the Landlords \$186.00 for the cost of filing the application on or before January 31, 2024.
4. If the Tenants do not pay the Landlords the application filing fee as set out in paragraph 3 of this order, the Tenants will start to owe interest. This will be simple interest calculated from February 1, 2024 at 7.00% annually on the balance outstanding.

**January 11, 2024**

**Date Issued**

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Kate Sinipostolova

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.