



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

**Citation:** Nagaraja v Cottrell, 2023 ONLTB 81989

**Date:** 2023-12-22

**File Number:** LTB-L-056199-23

**In the matter of:** 111 PINE MARTIN CRES  
KITCHENER ON N2E3S2

**Between:** Krishnamurthy Nagaraja Landlords  
Shalini Nagaraja

**And**

Brittany Cottrell Tenants  
Cory Hunt

Krishnamurthy Nagaraja and Shalini Nagaraja (the 'Landlords') applied for an order to terminate the tenancy and evict Brittany Cottrell and Cory Hunt (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on December 7, 2023.

The Landlords' Legal Representative, Irina Karyakina, attended the hearing.

As of 9:30AM, 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.

The Tenant, Cory Hunt, appeared in the hearing room at 10:00AM, after the hearing had concluded and after the Landlords' Legal Representative had left the hearing room.

I determined that the order should be issued based on only the Landlords' evidence because the Tenant failed to provide a reasonable excuse for being late. The Notice of Hearing instructs parties to sign on 30 minutes prior to the start time (being 9:00AM for this matter). I explained to the Tenants they should contact their landlords. I also explained to the Tenants they may wish to contact Tenants Duty Counsel once they receive the order for options on how to proceed.

**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 \$1,974.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$64.90. This amount is calculated as follows: \$1,974.00 x 12, divided by 365 days.
5. The Tenants have paid \$7,896.00 to the Landlords since the application was filed.
6. The rent arrears owing to December 31, 2023 are \$5,922.00.
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 \$1,974.00 from the Tenants and this deposit is still being held by the Landlords. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
9. Interest on the rent deposit, in the amount of \$21.63 is owing to the Tenants for the period from July 1, 2023 to December 7, 2023.
10. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenant and 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 Landlords 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 Landlords or to the LTB in trust:**
  - \$6,108.00 if the payment is made on or before December 31, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

- \$8,082.00 if the payment is made on or before January 3, 2024. 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 has paid the full amount owing as ordered plus any additional rent that became due after January 3, 2024 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 January 3, 2024**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlords \$2,592.67. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. The rent deposit and interest the Landlords 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 Landlords compensation of \$64.90 per day for the use of the unit starting December 8, 2023 until the date the Tenants moves out of the unit.
7. If the Tenants do not pay the Landlords the full amount owing on or before January 2, 2024, the Tenants will start to owe interest. This will be simple interest calculated from January 3, 2024 at 7.00% annually on the balance outstanding.
8. If the unit is not vacated on or before January 3, 2024, then starting January 4, 2024, the Landlords 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 Landlords on or after January 4, 2024.

**December 22, 2023**

**Date Issued**

\_\_\_\_\_  
Elena Jacob

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 July 4, 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 December 31, 2023**

Rent Owing To December 31, 2023	\$13,818.00
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenants paid to the Landlords since the application was filed	- \$7,896.00
<b>Total the Tenants must pay to continue the tenancy</b>	<b>\$6,108.00</b>

**B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before January 3, 2024**

Rent Owing To January 31, 2024	\$15,792.00
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenants paid to the Landlords since the application was filed	- \$7,896.00
<b>Total the Tenants must pay to continue the tenancy</b>	<b>\$8,082.00</b>

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

Rent Owing To Hearing Date	\$12,298.30
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenants paid to the Landlords since the application was filed	- \$7,896.00
<b>Less</b> the amount of the last month's rent deposit	- \$1,974.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$21.63
<b>Total amount owing to the Landlords</b>	<b>\$2,592.67</b>
Plus daily compensation owing for each day of occupation starting December 8, 2023	\$64.90 (per day)