



Order under Section 69 Residential Tenancies Act, 2006

Citation: Asad v Mandaag, 2023 ONLTB 80956

Date: 2023-12-14

File Number: LTB-L-045117-23

In the matter of: Main Floor-546 Monteith Avenue
Oshawa, ON L1J 1C9

Between: Md Khalid Asad Landlords
Tamina Rasul

And

Haley Mandaag Tenants
Michael Filipowicz

Md Khalid Asad and Tamina Rasul (the 'Landlords') applied for an order to terminate the tenancy and evict Haley Mandaag and Michael Filipowicz (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on November 21, 2023.

Only the Landlord Md Khalid Asad and the Landlord's Legal Representative Victoria Orlandi attended the hearing.

As of 9:48 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 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 \$2,450.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$80.55. This amount is calculated as follows: \$2,450.00 x 12, divided by 365 days.
5. The Tenants have not made any payments since the application was filed.
6. The rent arrears owing to November 30, 2023 are \$21,950.00.

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 \$2,250.00 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 \$62.41 is owing to the Tenants for the period from October 13, 2022 to November 21, 2023.
10. Due to the Board's order issuance policies, eviction is postponed to January 3, 2024. 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 postpone the eviction until January 3, 2024 pursuant to subsection 83(1)(b) 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:**
 - \$24,586.00 if the payment is made on or before December 31, 2023. See Schedule 1 for the calculation of the amount owing.

OR

 - \$27,036.00 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 have 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 \$19,065.14. 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 owe 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 \$80.55 per day for the use of the unit starting November 22, 2023 until the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlords the full amount owing on or before December 25, 2023, the Tenants will start to owe interest. This will be simple interest calculated from December 26, 2023 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 14, 2023

Date Issued

Jagger Benham
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	\$24,400.00
Application Filing Fee	\$186.00
Total the Tenants must pay to continue the tenancy	\$24,586.00

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	\$26,850.00
Application Filing Fee	\$186.00
Total the Tenants must pay to continue the tenancy	\$27,036.00

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

Rent Owing To Hearing Date	\$21,191.55
Application Filing Fee	\$186.00
Less the amount of the last month's rent deposit	- \$2,250.00
Less the amount of the interest on the last month's rent deposit	- \$62.41
Total amount owing to the Landlords	\$19,065.14
Plus daily compensation owing for each day of occupation starting November 22, 2023	\$80.55 (per day)