



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

**Citation:** Danbar Property Holdings II LP v Ali, 2023 ONLTB 69649

**Date:** 2023-10-25

**File Number:**  
LTB-L-037496-23

**In the matter of:** 608, 3967 LAWRENCE AVE E  
SCARBOROUGH ON M1G1S2

**Between:** Danbar Property Holdings II LP Landlord

**And**

Ahmet Ali and Antigona Ali Tenants

Danbar Property Holdings II LP (the 'Landlord') applied for an order to terminate the tenancy and evict Ahmet Ali and Antigona Ali (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe. The Landlord also claimed charges related to NSF cheques.

This application was heard by videoconference on September 25, 2023.

The Landlord's Representative, Sara Ginman, and the Tenant, Antigona Ali ("AA"), attended the hearing

**Determinations:**

*Preliminary Issue – Was the Tenancy assigned?*

1. AA testified that she assigned the tenancy to a friend, Naila Shaikh ("NS"), approved by the superintendent and vacated the unit on October 26, 2022. AA submitted she was aware of the hearing as the NS received the Board's email with the notice of hearing and forwarded the notice of hearing to AA.
2. The Landlord's Representative submitted that the Landlord was unaware of an assignment for the rental unit and that the superintendent had no authority to accept assignments.

3. The Landlord's Representative submitted that AA gave the Landlord a N9 notice on June 9, 2023 with a termination date of August 31, 2023. The tenancy agreement submitted into evidence, signed by the Tenants, stipulates:

Assignment: The Tenant may assign the Rental Unit only in accordance with this clause and the RTA. The Tenant covenants not to assign the Rental Unit without first requesting, in writing, and receiving written permission of the Landlord to do so, which consent will not be arbitrarily or unreasonably refused. The Landlord may charge an administration and processing fee in respect of the granting or withholding of such consent in accordance with the RTA. It is further agreed that a request to assign to a specified assignee shall be deemed not to have been made until any applicable administration and processing fee has been paid and submitted along with the Tenant's written request. The Tenant shall deliver all completed documentation that the Landlord may reasonably require from the Tenant and/or the prospective assignee, along with the Tenant's written request. Each written request shall be delivered personally or by mail to the Landlord at the address set out in clause 3 of the Lease, but if given by mail, said written request is deemed to have been delivered five days after the written request is mailed, not including weekends or holidays.

4. Section 95(1) of the *Residential Tenancies Act*, 2006 stipulates that a tenant may assign a rental unit to another with the consent of the landlord.
5. AA did not provide any evidence to support her assertion that the Landlord had consented to an assignment, nor did she summons NS or the superintendent to testify on the validity of the assignment. Based on the evidence before me, I find, on a balance of probabilities, that there was no lawful assignment of the tenancy from AA to NS. As such, the Tenants are properly named on the application.

### *Arrears*

6. The Landlord 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.
7. The Tenants were in possession of the rental unit on the date the application was filed.
8. The Tenants vacated the rental unit on September 6, 2023. Rent arrears are calculated up to the date the Tenants vacated the unit.
9. The lawful rent is \$2,641.00. It was due on the 1st day of each month.
10. The Tenants have not made any payments since the application was filed.
11. The rent arrears owing to September 6, 2023 are \$13,395.86.

12. The Landlord is entitled to \$20.00 to reimburse the Landlord for administration charges and \$10.00 for bank fees the Landlord incurred as a result of 1 cheque given by or on behalf of the Tenants which were returned NSF.
13. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
14. The Landlord collected a rent deposit of \$2,641.00 from the Tenants and this deposit is still being held by the Landlord. The rent deposit is applied to the arrears of rent because the tenancy terminated.
15. Interest on the rent deposit, in the amount of \$67.47 is owing to the Tenants for the period from August 30, 2022 to September 6, 2023.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenants is terminated as of September 6, 2023, the date the Tenants moved out of the rental unit
2. The Tenants shall pay to the Landlord \$10,903.39. 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 and unpaid NSF charges. The rent deposit and interest the Landlord 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 Landlord the full amount owing on or before November 5, 2023, the Tenants will start to owe interest. This will be simple interest calculated from November 6, 2023 at 7.00% annually on the balance outstanding.

**October 25, 2023**

**Date Issued**

\_\_\_\_\_  
Vicky Liu

Member, Landlord and Tenants Board

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	\$13,395.86
Application Filing Fee	\$186.00
NSF Charges	\$30.00
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$0.00
<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	- \$2,641.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$67.47
<b>Less</b> the amount the Landlord owes 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 Landlord</b>	<b>\$10,903.39</b>