



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

Citation: Pasqua v Gois, 2023 ONLTB 65567

Date: 2023-10-03

File Number: LTB-L-004628-23
LTB-L-003932-23

In the matter of: 1968 Annecca Street Innisfil
ON L9S1W8

Between: Claudio Pasqua Landlord

And

Frank Gois and Jessica Amber Shubat Tenant

Claudio Pasqua (the 'Landlord') applied for an order to terminate the tenancy and evict Frank Gois and Jessica Amber Shubat (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe. (L1 Application)

The Landlord also applied for an to terminate the tenancy and evict the Tenants because the Tenants have been persistently late in paying the Tenant's rent. (L2 Application)

These applications were heard by videoconference on September 21, 2023.

The Landlord was represented at the hearing by Brittney Tessier. 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 Landlord's evidence.

Determinations:

L1 Application

1. 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.

2. As of the hearing date, the Tenants were still in possession of the rental unit.
3. The lawful rent is \$2,700.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$88.77. This amount is calculated as follows: \$2,700.00 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 October 14, 2023, are \$37,800.00.**
7. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$2,700.00 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.
9. Interest on the rent deposit, in the amount of \$113.92 is owing to the Tenant for the period from January 14, 2022, to September 21, 2023.

L2 Application

10. The Landlord served the Tenants an N8 notice of termination because they have persistently paid their rent late.
11. At the hearing the Landlord's representative submitted a copy of the Tenants' ledger showing that the Tenant has paid their rent late every month beginning April 1, 2021.
12. Given the Landlord's uncontested evidence, I am satisfied, on a balance of probabilities, that the Tenants have persistently failed to pay the rent on the date it was due.

Relief From Eviction

13. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

It is ordered that:

Regarding the L1 Application:

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants void this order.
2. **The Tenant may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**

- \$38,001.00 if the payment is made on or before October 14, 2023. 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 Tenant has paid the full amount owing as ordered plus any additional rent that became due after October 14, 2023, but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant 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 October 14, 2023**
 5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$33,108.47. 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 Landlord 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 Landlord compensation of \$88.77 per day for the use of the unit starting September 22, 2023, until the date the Tenant moves out of the unit.
 7. If the Tenants do not pay the Landlord the full amount owing on or before October 14, 2023, the Tenant will start to owe interest. This will be simple interest calculated from October 15, 2023, at 7.00% annually on the balance outstanding.
 8. If the unit is not vacated on or before October 14, 2023, then starting October 15, 2023, the Landlord 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 Landlord on or after October 15, 2023.

Regarding the L2 Application:

10. If the Tenants void the L1 order, The tenancy between the Landlord and the Tenants is terminated, October 31, 2023, due to persistently late payments of rent. The Tenants must move out of the rental unit on or before October 31, 2023.
11. The Landlord's shall return the Tenants Last Month's rent deposit, and pay the Tenants interest owing, less the Landlord's application filing fee. The Landlords shall also deduct compensation of \$88.77 per day for the use of the unit starting November 1, 2023, until the date the Tenant moves out of the unit. See Schedule 2 for calculation of the amount owing.
12. If the unit is not vacated on or before October 31, 2023, then starting November 1, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.

13. 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 November 1, 2023.
14. If the Landlord does not pay the Landlord the full amount owing on or before October 31, 2023, the Landlord will start to owe interest. This will be simple interest calculated from November 1, 2023, at 7.00% annually on the balance outstanding.

October 3, 2023

Date Issued

Bryan Delorenzi

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 April 15, 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, until October 31, 2023, if the payment is made on or before October 14, 2023

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|--|--------------------|
| Rent Owing To October 14, 2023 | \$37,800.00 |
| Application Filing Fee | \$201.00 |
| Total the Tenant must pay to continue the tenancy | \$38,001.00 |

B. Amount the Tenants must pay if the tenancy is terminated pursuant to the L1 Application

| | |
|--|----------------------|
| Rent Owing To Hearing Date | \$35,721.39 |
| Application Filing Fee | \$201.00 |
| Less the amount of the last month's rent deposit | - \$2,700.00 |
| Less the amount of the interest on the last month's rent deposit | - \$113.92 |
| Total amount owing to the Landlord | \$33,108.47 |
| Plus daily compensation owing for each day of occupation starting September 22, 2023 | \$88.77 (per day) |

**Schedule 2
 SUMMARY OF CALCULATIONS**

A. Amount the Landlord must pay if the Tenancy is terminated pursuant to the L2 Application

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|---|----------------------|
| The amount of the last month's rent deposit | \$2,700.00 |
| The amount of the interest on the last month's rent deposit | \$113.92 |
| Less the application filing fee | -201.00 |
| Total amount owing to Tenants | 2,612.92 |
| Less daily compensation owing for each day of occupation starting November 1, 2023 | \$88.77 (per day) |

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