



**AMENDED ORDER**  
**Order under Section 69 / 89**  
**Residential Tenancies Act, 2006**  
**And section 2.1 of the Statutory Powers Procedure Act**

**Citation:** 2563132 Ontario Ltd. v Merino, 2023 ONLTB 61606

**Date:** ~~2023-09-14~~ **2023-09-21**

**File Number:** LTB-L-008138-22-**AM**

**In the matter of:** B, 4 SATTERLY RD  
North York ON M9L1E8

**Between:** 2563132 Ontario Ltd. Landlord

**And**

Jose Oscar Merino Tenant  
Teresa De Jesus Carcamo

**This amended order is issued to correct errors in the original order. The corrections have been bolded and underlined for ease of reference**

2563132 Ontario Ltd. (the 'Landlord') applied for an order to terminate the tenancy and evict Jose Oscar Merino and Teresa De Jesus Carcamo (collectively the 'Tenant') because:

- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully or negligently caused damage to the premises.

2563132 Ontario Ltd. (the 'Landlord') also applied for an order requiring Jose Oscar Merino and Teresa De Jesus Carcamo (the 'Tenant') to pay the Landlord's reasonable out-of-pocket costs the Landlord has incurred or will incur to repair or replace undue damage to property. The damage was caused wilfully or negligently by the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex.

This application was heard by videoconference on August 8, 2023.

Only the Landlords' Representative Labros Lazaratos attended the hearing.

As of 10:38 am, the Tenant was 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:**

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application.

2. Therefore, the Tenant will be required to pay the Landlord's out-of-pocket expenses for damage to the unit.
3. The Tenant was in possession of the rental unit on the date the application was filed.

**N5 Notice of Termination:**

4. On 29 January, 2023, the Landlord served the N4 Notice of Termination on the Tenant, deemed served on the same date with a termination date of 18 February 2023.
5. The Notice of Termination contains the following allegations:
  - The washer and dryer had been moved to the dining room wall
  - There were holes in the walls
  - A clothes dryer was attached to a dedicated line, over loading the circuit
  - Piping had been installed to the kitchen plumbing
  - Cabinets had been installed to the dining room wall
6. In the N5, the Tenant was given the option to repair the damages for \$1,500 or to replace it for \$2,000.
7. The Tenant did not repair the damage, or pay the Landlord the reasonable costs to replace the damage or make arrangements satisfactory to the Landlord within seven days after receiving the N5 notice of termination.
8. Therefore, none of the allegations in the N5 have been voided by the Tenant in accordance with section 62(3) of the *Residential Tenancies Act, 2006* (Act).
9. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
10. The Landlord collected a rent deposit of \$1,650.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$75.85 is owing to the Tenant for the period from March 31, 2020 to August 8, 2023.
11. In accordance with subsection 106(10) of the *Residential Tenancies Act, 2006*, (the 'Act') the last month's rent deposit shall be applied to the rent for the last month of the tenancy

**Willful or Negligent Damage:**

12. Based on the uncontested evidence of the Landlord, I am satisfied on a balance of probabilities, that the Tenant or another occupant of the rental unit wilfully or negligently caused undue damage to the rental unit or residential complex as set out above.
13. Labros Lazaratos testified at the hearing and photo evidence was provided showing the extent of the damages.
14. Four of the walls need to be replaced as a result of the damage caused.
15. A plumber will be needed to remove the plumbing.
16. An electrician will also be needed in relation to the circuit issues.

17. New cabinets will also be needed.
18. All of the damage took place within the rental unit. In the absence of evidence suggesting that the damage could be caused by some other person, I am prepared to draw an inference that the damage was caused by the Tenant, an occupant, or a person that the Tenant permitted into the rental unit.

**Compensation:**

19. The Landlord testified that they will incur costs of \$2,000.00 to replace property that was damaged, as set out in the L2 application.
20. The Landlord did not provide receipts for the amount needed for the repairs. However, I am satisfied that this is a reasonable estimate of the reasonable costs the Landlord will incur based on the extent of the damages and the uncontested testimony of the Landlord's Representative.
21. The Landlord has proven that the Tenant wilfully or negligently caused undue damage to the rental unit or residential complex and that he is entitled to his out of pocket expenses to replace the damaged property.

**Relief from Eviction:**

22. 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.
23. The Landlord was not aware of any special circumstances meriting relief from eviction.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before ~~September 25, 2023~~ October 2, 2023.
2. If the unit is not vacated on or before ~~September 25, 2023~~ October 2, 2023, then starting ~~September 26, 2023~~ October 3, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. 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 ~~September 26, 2023~~ October 3, 2023.
4. The Tenant shall also pay the Landlord compensation of \$54.25 per day for the use of the unit starting August 9, 2023 until the date the Tenant moves out of the unit.
5. The Tenant shall pay to the Landlord \$2,000.00, which represents the reasonable costs of replacing the damaged property.
6. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
7. The Landlord owes \$1,725.85 which is the amount of the rent deposit and interest on the rent deposit, and this is deducted from the amount owing by the Tenant.

8. **The total amount the Tenant owes the Landlord is \$460.15.**
9. If the Tenant does not pay the Landlord the full amount owing on or before ~~September 25, 2023~~ **October 2, 2023**, the Tenant will start to owe interest. This will be simple interest calculated from ~~September 26, 2023~~ **October 3, 2023** at 6.~~7~~.00% annually on the balance outstanding.

**September 21, 2023**

**September 14, 2023**

**Date Issued**

\_\_\_\_\_  
James Campbell  
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 of the Tenant expires on ~~March 26~~ **April 3**, 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.