



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

Citation: Duncan v Rutledge, 2023 ONLTB 49226

Date: 2023-07-10

File Number: LTB-L-016492-23

In the matter of:           399 SECOND AVE  
                                  SAULT STE. MARIE ON P6C4N4  
Between: Andrew Duncan Landlords  
                                  Northstar Property Management Inc.

And

Tammy Rutledge  
Jena Rutledge

Tenants

Andrew Duncan and Northstar Property Management Inc. (the 'Landlords') applied for an order to terminate the tenancy and evict Tammy Rutledge and Jena Rutledge (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on June 22, 2023.

Only the Landlords' agent Greta Wilson attended the hearing.

As of 1:28p.m., 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 Landlord, Northstar Property Management Inc., 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. An amended application was filed with the Board to reflect that "Andrew Duncan" is to be added a landlord party to the application. At the hearing, the Landlords' agent advised that a copy of this amended application was also served to the Tenants. I considered the factors in Rule 15 of the Board's Rules of Procedure and granted the request for the amendment. The application is amended

to add Andrew Duncan a landlord party. There is no prejudice to the Tenants from this amendment because it does not affect the validity of the N4 Notice.

3. As of the hearing date, the Tenants were still in possession of the rental unit.
4. The lawful rent is \$1,400.00. It is due on the 1st day of each month.
5. Based on the Monthly rent, the daily rent/compensation is \$46.03. This amount is calculated as follows: \$1,400.00 x 12, divided by 365 days.
6. The Tenants paid \$4,300.00 to the Landlords since the application was filed.
7. The rent arrears owing to June 30, 2023, are \$2,700.00.
8. The Landlords incurred costs of \$186.00 for filing the application and are entitled to reimbursement of those costs.
9. The Landlords collected a rent deposit of \$1,400.00 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.
10. Interest on the rent deposit, in the amount of \$34.52 is owing to the Tenants for the period from June 28, 2022, to June 22, 2023.
11. 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 Landlords attempted to negotiate a repayment agreement with the Tenants and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. The Landlords' agent is not aware of any circumstances which the Board should be made aware of whether to refuse or delay the eviction.

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:
  - \$4,286.00 if the payment is made on or before July 21, 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 Tenants have paid the full amount owing as ordered plus any additional rent that became due after July 21, 2023 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 July 21, 2023
5. If the Tenants do not void the order, the Tenants shall pay to the Landlords \$1,064.14. 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 \$46.03 per day for the use of the unit starting June 23, 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 July 21, 2023, the Tenants will start to owe interest. This will be simple interest calculated from July 22, 2023, at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before July 21, 2023, then starting July 22, 2023, 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 July 22, 2023.

July 10, 2023

Date Issued

\_\_\_\_\_  
Inderdeep Padma

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 January 22, 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 July 21, 2023

Rent Owing To July 31, 2023	\$8,400.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlords since the application was filed	- \$4,300.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlords owe the Tenants for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants are entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$4,286.00

B. Amount the Tenants must pay if the tenancy is terminated

Rent Owing To Hearing Date	\$6,612.66
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlords since the application was filed	- \$4,300.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$1,400.00
Less the amount of the interest on the last month's rent deposit	- \$34.52
Less the amount the Landlords owe the Tenants for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants are entitled to	- \$0.00
Total amount owing to the Landlords	\$1,064.14
Plus daily compensation owing for each day of occupation starting June 23, 2023	\$46.03 (per day)