



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

Citation: Jacqueline Layne v Genevieve McGowan, 2023 ONLTB 41230

Date: 2023-06-08

File Number: LTB-L-006098-23

In the matter of: Unit B, 119 Townline Road East
Carleton Place Ontario K7C2C9

Between: Jacqueline Layne Landlords
Leonard Layne

And

Genevieve McGowan Tenants
James McGowan

Jacqueline Layne and Leonard Layne (the 'Landlords') applied for an order to terminate the tenancy and evict Genevieve McGowan and James McGowan (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

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

The Landlords Leonard Layne and Jacqueline Layne and the Tenant James McGowan attended the hearing.

Determinations:

1. The Landlords 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 \$1,945.00. It is due on the 1st day of each month.
4. The Tenants have paid \$9,820.00 to the Landlords since the application was filed.
5. The parties agreed the rent arrears owing to May 31, 2023 are \$3,870.00.

6. The Landlords incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.
7. At the hearing the Landlords stated they were not interested in the rent arrears and simply wanted an eviction of the Tenants. They stated they had attempted to discuss a payment agreement with the Tenants however nothing materialized.

File Number: LTB-L-006098-23

8. The Tenant, Mr. McGowan, explained that he fell into arrears as a result of losing his employment. He lives in the rental unit with his wife and two children. Mr. McGowan's evidence was he is now back working full time and requested an ordered payment plan. I canvassed the household income and was satisfied the Tenants could afford the monthly rent as well as a meaningful payment towards the rent arrears. I also took into account the significant payments the Tenants have made to the Landlord.
9. 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 grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act. As termination is a remedy of last resort, I find the Tenants should be given an opportunity to maintain the tenancy and a conditional order will issue.

It is ordered that:

1. The Tenants shall pay to the Landlord \$4,071.00 for arrears of rent up to May 31, 2023 and costs in accordance with the following schedule:
 - a) 600.00 on June 19, 2023
 - b) \$600.00 on July 19, 2023
 - c) \$600.00 on August 19, 2023
 - d) \$600.00 on September 19, 2023
 - e) \$600.00 on October 19, 2023
 - f) \$600.00 on November 19, 2023
 - g) \$471.00 on December 19, 2023

2. The Tenants shall pay the Landlord the monthly rent as it becomes due and owing on or before the first day of every month beginning July 1, 2023 until December 1, 2023, or until the arrears are paid in full, whichever date is earliest. Since this order is issued after the monthly rent for June 2023 becomes due and owing, it is payable on or before July 1, 2023 along with the monthly rent for July 1, 2023.
3. If the Tenants fail to make any one of the payments in accordance with this order, the outstanding balance of any arrears of rent and costs to be paid by the Tenants to the Landlords pursuant to paragraphs 1 of this order shall become immediately due and owing and the Landlords may, without notice to the Tenants, apply to the LTB within 30 days of the Tenants' breach pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenants and requiring that the Tenants pay any new arrears, NSF fees and related charges that became owing after May 31, 2023.

File Number: LTB-L-006098-23

June 8, 2023
Date Issued

John Cashmore

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.