



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

Citation: Roshan D'souza v Heather Veronica Browne, 2023 ONLTB 41794

Date: 2023-06-07

File Number: LTB-L-073586-22

In the matter of: 4 HOOVER RD
BRAMPTON ON L7A4L2

Between:

Landlords

Roshan D'souza and Sylvia D'souza

And

Tenants

Heather Veronica Browne and Jonathan O'Brien Browne

Roshan D'souza and Sylvia D'souza (the 'Landlords') applied for an order to terminate the tenancy and evict Heather Veronica Browne and Jonathan O'Brien Browne (the 'Tenant') because the Tenants did not pay the rent that the Tenants owe. (L1 application)

This L1 application was heard by videoconference on May 25, 2023.

Only the Landlords attended the hearing.

An occupant of the rental unit, Alison Browne, was in attendance and she raised a preliminary matter relating to her name being included as one of the tenants to the tenancy. She stated that she is not a tenant, but an occupant. Both Landlords agreed that this is the case. As a result, the name of Alison Browne is removed from the list of tenants, and that change is already reflected in this order. As an aside, Ms. Browne indicated the Tenants were aware of this hearing but were at work.

As of 2:51 pm, 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:

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. The Tenants were in possession of the rental unit on the date the L1 application was filed.
3. Pursuant to another LTB order that was arrived-at on consent, that is order LTB-L-04885822 issued on March 23, 2023, the tenancy between the Landlords and the Tenants was terminated effectively on May 9, 2023. As a result, the Landlords indicated they are only seeking an order for rent arrears. Rent arrears are calculated up to the May 9, 2023

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termination date, and then the daily *per diem* compensation is ordered, to address any overstaying in the rental unit by the Tenants after May 9, 2023.

4. The lawful rent is \$2,300.00. It was due on the 10th day of each month.
5. Based on the monthly rent, the daily rent/compensation is \$75.62. This amount is calculated as follows: \$2,300.00 x 12, divided by 365 days.
6. The Tenants did not make any payments since the L1 application was filed.
7. The rent arrears owing to May 9, 2023 are \$14,600.00.
8. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. According to the L1 application and the update sheet, the Landlords collected a rent deposit of \$2,050.00 from the Tenants and this deposit is still being held by the Landlords. The rent deposit is applied to the arrears of rent because the tenancy terminated.
10. Interest on the rent deposit, in the amount of \$186.18 is owing to the Tenants for the period from July 10, 2017 to May 9, 2023.

It is ordered that:

1. The tenancy between the Landlords and the Tenants is terminated as of May 9, 2023, the date the tenancy was terminated in order LTB-L-048858-22 issued on March 23, 2023.
2. The Tenants shall pay to the Landlords \$12,549.82. This amount includes rent arrears owing up to the date the tenancy was terminated and the cost of filing the application. The rent deposit and interest the Landlords 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. The Tenants shall also pay the Landlords daily compensation of \$75.62 per day for the use of the unit starting May 10, 2023 until the date the Tenants move out of the unit.
4. If the Tenants do not pay the Landlords the full amount owing on or before June 18, 2023, the Tenants will start to owe interest. This will be simple interest calculated from June 19, 2023 at 6.00% annually on the balance outstanding.

June 7, 2023

Date Issued

Alex Brkic

Member, Landlord and Tenant 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.

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**Schedule 1
SUMMARY OF CALCULATIONS**

A. Amount the Tenants must pay as the tenancy is terminated

Rent Owing To the Termination Date of May 9, 2023	\$14,600.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlords since the application was filed	- \$0.00
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	- \$2,050.00
Less the amount of the interest on the last month's rent deposit	- \$186.18
Total amount owing to the Landlords	\$12,549.82

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