



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

Citation: Indumathi Uthayakumar v Dane Berlingieri, 2023 ONLTB 41318

Date: 2023-06-02

File Number: LTB-L-079749-22

In the matter of: Main Floor, 11 WESTWOOD RD
WHITBY ON L1N3N8

Between: Indumathi Uthayakumar and Sarojadevi Landlords
Srimurugaraja

And

Dane Berlingieri and Kaitlynn Lisa-Marie Tenants
Askin-Felts

Indumathi Uthayakumar and Sarojadevi Srimurugaraja (the 'Landlords') applied for an order to terminate the tenancy and evict Dane Berlingieri and Kaitlynn Lisa-Marie Askin-Felts (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' legal representative, Paul Balram, and the Tenant, Kaitlynn Lisa-Marie Askin-Felts ('KA'), 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 \$2,300.00. It is due on the 1st day of each month.
4. 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.
5. The Tenants have not made any payments since the application was filed.

6. The rent arrears owing to May 31, 2023 are \$18,400.00. The parties agreed this is the correct amount of rent arrears to May 31, 2023.
7. The Landlords incurred costs of \$186.00 for filing the application and are entitled to reimbursement of those costs.
8. The Landlords collected a rent deposit of \$2,300.00 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.
9. Interest on the rent deposit, in the amount of \$42.06 is owing to the Tenants for the period from September 1, 2022 to May 25, 2023.
10. KA stated that the Tenants have found new living accommodation and will be vacating the rental unit by June 15, 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, except to delay eviction to June 15, 2023.

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:
 - \$20,886.00 if the payment is made on or before June 15, 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 June 15, 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 June 15, 2023
5. If the Tenants do not void the order, the Tenants shall pay to the Landlords \$15,834.44. 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 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 Landlords compensation of \$75.62 per day for the use of the unit starting May 26, 2023 until the date the Tenants moves out of the unit.
7. If the Tenants do not pay the Landlords the full amount owing on or before June 13, 2023, the Tenants will start to owe interest. This will be simple interest calculated from June 14, 2023 at 6.00% annually on the balance outstanding.

8. The Landlords or the Tenants shall pay to the other any sum of money that is owed as a result of this order.
9. If the unit is not vacated on or before June 15, 2023, then starting June 16, 2023, the Landlords may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
10. 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 June 16, 2023.

June 2, 2023

Date Issued

Mark Melchers

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 December 16, 2023 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 June 15, 2023

Rent Owing To June 30, 2023	\$20,700.00
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 the Landlords owes the Tenants for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$20,886.00

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

Rent Owing To Hearing Date	\$17,990.50
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	- \$2,300.00
Less the amount of the interest on the last month's rent deposit	- \$42.06
Less the amount the Landlords owes the Tenants for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$0.00
Total amount owing to the Landlords	\$15,834.44
Plus daily compensation owing for each day of occupation starting May 26, 2023	\$75.62 (per day)