



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

Citation: Isaacs v Montauti, 2023 ONLTB 39929

Date: 2023-05-30

File Number: LTB-L-077053-22
(HOL-12007-21)

In the matter of: 1209, 4699 Glen Erin Drive
Mississauga ON L5M2E5

Between: Airaj Kamran Isaacs Landlords
Sumaira Isaacs

And

Cassandra Susan Montauti Tenant

Your file has been moved to the Landlord and Tenant Board's new case management system, the Tribunals Ontario Portal. Your new file number is LTB-L-077053-22.

Airaj Kamran Isaacs and Sumaira Isaacs (the 'Landlords') applied for an order to terminate the tenancy and evict Cassandra Susan Montauti (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 24, 2022.

The Landlords and the Landlord's representative, Louis Vittas, attended the hearing.

As of 10:55am, 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 of the hearing date, the Tenant was still in possession of the rental unit.
2. I do not find that the Landlords served the Tenant with a valid N4 Notice of termination.
3. The N4 Notice indicates that there is \$750.00 owing for the period of June 1, 2021 to June 30, 2021 which is the amount outstanding from the \$2,750.00 rent charged.
4. The N4 Notice further indicates a full rent balance of \$2,750.00 for the month of July 2021.

5. Although the Landlords evidence indicates that the N4 Notice was served on the Tenant on August 22, 2021, there is no mention of the August rent on the notice.

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6. Additionally, when the Landlords filed their L1 application on September 13, 2021, the Landlords added the August 2021 as being outstanding and neglected to add the September 2021 despite it being filed in September.
7. At the hearing, the Landlords requested to amend their application to reflect that a portion of the last month's rent deposit was used towards the rent for August.
8. Additionally, the Landlords requested to amend their application to indicate that the full rent of \$2,750.00 was owing for September.
9. The Landlords indicated that there was a \$5,500.00 amount on deposit and that half of it was applied to August and that is why it was not included on the N4.
10. The lease agreement filed with the Board indicates that the tenancy commenced on June 1, 2021.
11. Also on the lease was a clause indicating that the Tenant paid first and last month's rent in the amount of \$5,500.00.
12. The Landlord confirmed that the tenancy commenced on June 1, 2021.
13. It is clear from the evidence filed with the Board that there was no rent owing for the month of June because the Tenant had paid this first month's rent at the commencement of the Tenancy when they paid \$5,500.00. This reflects \$2,750.00 for the first month (June 2021) and \$2,750.00 for the last month.
14. Since the Tenant paid their rent for June upon the commencement of the tenancy, the N4 Notice does not accurately reflect the amount of rent outstanding on the notice and the notice is defective. The notice also failed to accurately reflect the rent for August.
15. I am unable to issue an order terminating the tenancy based on a defective N4 Notice of termination. Additionally, since the evidence of the Landlord was contradictory and confusing, I am unable to consider an order for arrears of rent only.
16. For these reasons the Landlords' application must be dismissed.

It is ordered that:

1. The Landlords' application is dismissed.

May 30, 2023

Date Issued

Terri van Huisstede
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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