



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

**Citation:** Aurangzeb Susiwala v David Kells, 2023 ONLTB 39267

**Date:** 2023-05-

**24 File Number:** LTB-L-  
072476-22

2023 ONLTB 39267 (CanLII)

**In the matter of:** 1, 130 BROWN ST  
CAMBRIDGE ON N3H5T5

**Between:** Aurangzeb Susiwala Landlords  
Guiseppe Romeo  
Nadir Patel

**And**

David Kells Tenant

Aurangzeb Susiwala, Guiseppe Romeo and Nadir Patel (the 'Landlords') applied for an order to terminate the tenancy and evict David Kells (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on May 11, 2023.

Only the Landlords' legal representative, Emilio Vaiano, attended the hearing.

The hearing was scheduled to begin at 1:00pm. As of 1:30pm, 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 Landlords' evidence.

**Determinations:**

1. The Landlords served the Tenant with a valid Notice to End Tenancy Early for Nonpayment of Rent (N4 Notice). The Tenant 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 Tenant was still in possession of the rental unit.
3. The lawful rent is \$873.30. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$28.71. This amount is calculated as follows:  $\$873.30 \times 12$ , divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to May 31, 2023 are \$6,922.50.
7. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlords collected a rent deposit of \$825.00 from the Tenant 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 \$246.40 is owing to the Tenant for the period from April 3, 2006 to May 11, 2023.
10. 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 Tenant, and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

**It is ordered that:**

1. The tenancy between the Landlords and the Tenant is terminated unless the Tenant voids this order.
2. **The Tenant may void this order and continue the tenancy by paying to the Landlords or to the LTB in trust:**
  - \$7,108.50 if the payment is made on or before May 31, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

  - \$7,981.80 if the payment is made on or before June 4, 2023. See Schedule 1 for the calculation of the amount owing.
3. The Tenant may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenant has paid the full amount owing as ordered plus any additional rent that became due after June 4, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenant may only make this motion once during the tenancy.
4. **If the Tenant does not pay the amount required to void this order the Tenant must move out of the rental unit on or before June 4, 2023**

5. If the Tenant does not void the order, the Tenant shall pay to the Landlords \$5,479.61. 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 Tenant. See Schedule 1 for the calculation of the amount owing.
6. The Tenant shall also pay the Landlords compensation of \$28.71 per day for the use of the unit starting May 12, 2023 until the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlords the full amount owing on or before June 4, 2023, the Tenant will start to owe interest. This will be simple interest calculated from June 5, 2023 at 6.00% annually on the balance outstanding.
8. The Landlords or the Tenant 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 4, 2023, then starting June 5, 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 5, 2023.

**May 24, 2023**

**Date Issued**

Laura Hartsliet

Member, Landlords 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 5, 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 Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before May 31, 2023**

Rent Owing To May 31, 2023	\$6,922.50
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlords since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlords owes the Tenant for an{abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$7,108.50</b>

**B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before June 4, 2023**

Rent Owing To June 30, 2023	\$7,795.80
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlords since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the Landlords owes the Tenant for an{abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$7,981.80</b>

**C. Amount the Tenant must pay if the tenancy is terminated**

Rent Owing To Hearing Date	\$6,365.01
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlords since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount of the last month's rent deposit	- \$825.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$246.40

<b>Less</b> the amount the Landlords owes the Tenant for an {abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total amount owing to the Landlords</b>	<b>\$5,479.61</b>
Plus daily compensation owing for each day of occupation starting May 12, 2023	\$28.71 (per day)