



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

**Citation:** Williams & McDaniel Property Management v Andrea Whistance-smith, 2023 ONLTB  
32026

**Date:** 2023-05-24

**File Number:** LTB-L-054741-22

**In the matter of:** VGC, 25 TIMOTHY PL  
SAULT STE. MARIE ON P6B5V5

**Between:** Williams & McDaniel Property Management Landlord

**And**

Andrea Whistance-Smith Tenants  
Dave Pitawanakwat

Williams & McDaniel Property Management (the 'Landlord') applied for an order to terminate the tenancy and evict Andrea Whistance-smith and Dave Pitawanakwat (the 'Tenants') because the Tenants did not pay the rent that the Tenants owes.

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

The Landlord's Representative, John Anderson and the Tenants attended the hearing.

**Determinations:**

1. The Landlord 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 \$965.87. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$31.75. This amount is calculated as follows: \$965.87 x 12, divided by 365 days.
5. The Tenants have paid \$5,727.34 to the Landlord since the application was filed.
6. The rent arrears owing to April 30, 2023 are \$3,500.25.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

8. The Landlord collected a rent deposit of \$925.60 from the Tenants and this deposit is still being held by the Landlord. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.

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9. Interest on the rent deposit, in the amount of \$47.07 is owing to the Tenants for the period from August 9, 2019 to April 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'), 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.
11. The Tenants stated he became aware after speaking to Tenants Duty Counsel that he may be eligible for third party funding (Indian Friendship Centre). The Landlord was opposed to a payment plan longer than three months. The Tenant will know whether he qualifies for third party funding and the three months will allow him additional time to pay off the arrears and sort out his finances.

**It is ordered that:**

1. The Tenants shall pay the Landlord \$3,686.25 which represents the rent owing to April 30, 2023 as follows:
  - a) \$250.00 (arrears) an hour before May 14, 2023;
  - b) \$250.00 (arrears) on or before June 14, 2023; and
  - c) \$3,186.25 (balance of arrears) on or before July 14, 2023.
2. The Tenants shall also pay the Landlord rent owing for the month of May 2023 to July 2023 no later than first day of each month or until the balance of arrears is paid.
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 Landlord pursuant to paragraph 1 of this order shall become immediately due and owing and the Landlord may, without notice to the Tenants apply to the Board pursuant to section 78 of the Act for an order terminating the tenancy and evicting the Tenants and requiring that the Tenants to pay any new arrears, NSF fees and related charges that became owing after April 30, 2023.

**May 24, 2023**

**Date Issued**

\_\_\_\_\_ **Sandra Macchione**

Member, Landlord and Tenants 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.

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