



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

Citation: AMSTAR POOL I LP v alicia Persaud, 2023 ONLTB 39239

Date: 2023-05-23

File Number: LTB-L-056013-22

2023 ONLTB 39239 (CanLII)

In the matter of: 812, 2757 KIPLING AVE
ETOBICOKE ON M9V4C4

Between: AMSTAR POOL I LP Landlord

And

Alicia Persaud Tenants
Deokie Persaud
Trisha Persaud

AMSTAR POOL I LP (the 'Landlord') applied for an order to terminate the tenancy and evict Alicia Persaud, Deokie Persaud and Trisha Persaud (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on April 12, 2023.

The Landlord's representative, Sofia Enriquez and the Tenant, Alicia Persaud attended the hearing.

Determinations:

1. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Non-payment 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 was still in possession of the rental unit.
3. The lawful rent is \$2,386.82. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$78.47. This amount is calculated as follows: \$2,386.82 x 12, divided by 365 days.

5. The Tenants have paid \$9,399.51 to the Landlord since the application was filed.
6. The rent arrears owing to April 30, 2023 are \$9,050.82.
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 \$2,301.00 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.
9. Interest on the rent deposit, in the amount of \$18.99 is owing to the Tenants for the period from January 1, 2022 to April 12, 2023.

Relief from Eviction

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 Landlord 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.
11. The Landlord's representative testified that they attempted to communicate with the Tenants regarding a repayment plan on August 9, 2022 and again September 29, 2022 sending the Tenants letters regarding potential repayment plans. There was no response from the Tenants. I am satisfied the Landlord met their obligation to attempt to negotiate a repayment plan with the Tenants.
12. The Landlord sought an eviction order with eviction as the arrears are high with a few good faith payments made by the Tenants since the application was filed.
13. The Tenants wants to preserve her tenancy and avoid eviction. This has been a tenancy which started in 2020.
14. The Tenant that attended the hearing testified that the Tenants stopped paying the rent as her mother had left the country temporarily due to her grandmother passing away and she was paying the rent by herself. Her mother has now returned and contacted the rent bank for assistance.
15. The Tenant wanted a payment plan however, Landlord was opposed to due to the amount of arrears. In addition, not all the Tenants were present to provide submissions to their individual circumstances. The Tenant asked for "at least 1-2 months" to find new accommodation if she were to be evicted.

16. I find it would be unfair to explore a repayment plan without all submissions from the Tenants regarding the income circumstances. Therefore, I find there is no realistic way to impose a payment plan since there is no evidence supporting how any repayment plan could be satisfied.
17. I do however find that the delay from the hearing date to the issuance of this order is fair in the circumstances, so the Tenants can arrange their affairs and move, or pay off the arrears and void the eviction order if they are able.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants voids this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord:**
 - \$11,623.64 if the payment is made on or before May 31, 2023. See Schedule 1 for the calculation of the amount owing.

OR

- \$14,010.46 if the payment is made on or before June 3, 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 has paid the full amount owing as ordered plus any additional rent that became due after June 3, 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 3, 2023**
 5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$5,471.65. 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 Landlord 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 Landlord compensation of \$78.47 per day for the use of the unit starting April 13, 2023 until the date the Tenants moves out of the unit.

7. If the Tenants does not pay the Landlord the full amount owing on or before June 3, 2023, the Tenants will start to owe interest. This will be simple interest calculated from June 4, 2023 at 6.00% annually on the balance outstanding.
8. If the unit is not vacated on or before June 3, 2023, then starting June 4, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
9. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after June 4, 2023.

May 23, 2023

Date Issued

Camille Clyne

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.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on December 4, 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 May 31, 2023

Rent Owing To May 31, 2023	\$20,837.15
Application Filing Fee	\$186.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$9,399.51
Total the Tenants must pay to continue the tenancy	\$11,623.64

B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before June 3, 2023

Rent Owing To June 30, 2023	\$23,223.97
Application Filing Fee	\$186.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$9,399.51
Total the Tenants must pay to continue the tenancy	\$14,010.46

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

Rent Owing To Hearing Date	\$17,005.15
Application Filing Fee	\$186.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$9,399.51
Less the amount of the last month's rent deposit	- \$2,301.00
Less the amount of the interest on the last month's rent deposit	- \$18.99
Total amount owing to the Landlord	\$5,471.65
Plus daily compensation owing for each day of occupation starting April 13, 2023	\$78.47 (per day)