



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

Citation: Gerson Rios v Collin McNeil, 2023 ONLTB 38867

Date: 2023-05-23

File Number: LTB-L-056423-22

In the matter of: 377 JAY CRES
ORANGEVILLE ON L9W4Y9

Between: Gerson Rios Landlord

And

Collin McNeil and Samantha Jane Wakelin Tenants

Gerson Rios (the 'Landlord') applied for an order to terminate the tenancy and evict Collin McNeil and Samantha Jane Wakelin (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on April 13, 2023.

Only the Landlord's spouse, D. Argueta, attended the hearing.

As of 2:47 p.m., the Tenants were 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. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Non-payment 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. The Tenants were in possession of the rental unit on the date the application was filed.
3. The Tenants vacated the rental unit as of December 17, 2022. Rent arrears are calculated up to the date the Tenants vacated the unit.
4. The lawful rent is \$3,000.00. It was due on the 1st day of each month.
5. The Tenants have paid \$100.00 to the Landlord since the application was filed.
6. The rent arrears owing to December 17, 2022 are \$12,826.71.
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 \$3,000.00 from the Tenants and this deposit is still being held by the Landlord. The rent deposit is applied to the arrears of rent because the tenancy terminated.

9. Interest on the rent deposit, in the amount of \$45.57 is owing to the Tenants for the period from September 12, 2021 to December 17, 2022.
10. The Landlord's spouse, D. Argueta (DA) said that she last spoke to the Tenants on December 10, 2022. She said she heard from neighbours that the door to the rental unit was open, so she went to change the locks on December 17, 2022, and she left a note to let the Tenants know that they should contact her for the new keys. She said that the Landlord then sent the Tenants a message on December 22, 2022, asking them to move out all their furniture if they had intended to move out. DA said that the Tenants did not contact the Landlord, and the Landlord has not heard from the Tenants since that time.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated as of December 17, 2022, the date the Tenants moved out of the rental unit
2. The Tenants shall pay to the Landlord \$9,967.14. This amount includes rent arrears owing up to the date the Tenants moved out of the rental unit and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit is deducted from the amount owing by the Tenants. See Schedule 1 for the calculation of the amount owing.
3. If the Tenants do 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.

May 23, 2023
Date Issued

Nancy Morris
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.

**Schedule 1
SUMMARY OF CALCULATIONS**

A. Amount the Tenant must pay as the tenancy is terminated

Rent Owing To Move Out Date	\$12,926.71
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$100.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$3,000.00
Less the amount of the interest on the last month's rent deposit	- \$45.57
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total amount owing to the Landlord	\$9,967.14

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