



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

**Citation:** Sierra de la Ossa v Fitzsimmons, 2023 ONLTB 34108

**Date:** 2023-05-01

**File Number:** LTB-L-047381-22

**In the matter of:** #2-LOWER, 41 WOODLAND DR WELLAND  
ON L3C7C9

**Between:** Diana Sierra de la Ossa and Santiago Sanabria Carreno Landlords

**And**

David Fitzsimmons Tenant

Diana Sierra de la Ossa and Santiago Sanabria Carreno (the 'Landlords') applied for an order to terminate the tenancy and evict David Fitzsimmons (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on March 27, 2023.

Only the Landlords' Legal Representative Daria Berezowska and the Landlords attended the hearing.

As of 10:04 a.m., 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. The Tenant was in possession of the rental unit on the date the application was filed.
3. The Tenant vacated the rental unit on October 1, 2022. Rent arrears are calculated up to the date the Tenant vacated the unit.
4. The lawful rent is \$1,400.00. It was due on the 1st day of each month.

5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to October 1, 2022 are \$3,846.03.
7. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

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8. The Landlords collected a rent deposit of \$1,400.00 from the Tenant and this deposit is still being held by the Landlords. The rent deposit is applied to the arrears of rent because the tenancy terminated.
9. Interest on the rent deposit, in the amount of \$11.18 is owing to the Tenant for the period from February 1, 2022 to October 1, 2022.

**It is ordered that:**

1. The tenancy between the Landlords and the Tenant is terminated as of October 1, 2022, the date the Tenant moved out of the rental unit
2. The Tenant shall pay to the Landlords \$2,620.85. This amount includes rent arrears owing up to the date the Tenant 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 Tenant. See Schedule 1 for the calculation of the amount owing.
3. If the Tenant does not pay the Landlords the full amount owing on or before May 12, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 13, 2023 at 6.00% annually on the balance outstanding.

**May 1, 2023**

**Date Issued**

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Margo den Haan

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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**Schedule 1**  
**SUMMARY OF CALCULATIONS**

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

Rent Owing To Move Out Date	\$3,846.03
Application Filing Fee	\$186.00
<b>Less</b> the amount of the last month's rent deposit	- \$1,400.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$11.18
<b>Total amount owing to the Landlords</b>	<b>\$2,620.85</b>