



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

**Citation:** Tiana Perera v Annette Keown, 2023 ONLTB 33452

**Date:** 2023-04-26

**File Number:** LTB-L-053425-22

**In the matter of:** Upstairs-16 McGillivray Court Whitby,  
ON L1P 1A3

**Between:** Luis Araujo Landlords  
Tiana Perera

**And**

Annette Keown Tenants Mervyn Horner

Luis Araujo and Tiana Perera (the 'Landlords') applied for an order to terminate the tenancy and evict Annette Keown and Mervyn Horner (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on April 24, 2023.

The Landlords and the Tenants attended the hearing. The Tenants were assisted by Kathryn Mally. The Tenants met with Tenant Duty Counsel prior to the hearing.

### **Determinations:**

1. The Landlords 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 \$2,074.60. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$68.21. This amount is calculated as follows: \$2,074.60 x 12, divided by 365 days.
5. The Tenants have paid \$793.20 to the Landlords since the application was filed.
6. The rent arrears owing to April 30, 2023 are \$19,649.20.

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 \$2,000.00 from the Tenants 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 \$19.81 is owing to the Tenants for the period from January 1, 2021 to April 24, 2023.

*Section 83 Considerations*

10. The Landlord testified that numerous attempts have been made to make payment plans with the Tenant since June of 2022 however, the Tenants were unable to maintain their agreed upon payments. The payments plans were often spaced between long periods of no communication with the Landlords.
11. The Tenants testified that they were forced into a payment arrangement with the Landlord and proposed a repayment plan whereby the regular rent would be paid in full and on time on the 1<sup>st</sup> of the month, with an additional payment of \$200.00 per month towards the arrears.
12. On the basis of the evidence I have heard and considered from both parties, I do not find the Tenants' payment plan proposal to be reasonable. I am not satisfied that the Tenants' current income and support the rent or arrears payments.
13. Eviction will be ordered however; the Tenants will be given until the end of May to either void this order or find a new unit.
14. 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 postpone the eviction until May 31, 2023 pursuant to subsection 83(1)(b) of the Act.

**It is ordered that:**

15. The tenancy between the Landlords and the Tenants is terminated unless the Tenants void this order.
16. **The Tenants may void this order and continue the tenancy by paying to the Landlords:**
  1. \$19,835.20 if the payment is made on or before April 30, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

2. \$21,909.80 if the payment is made on or before May 31, 2023. See Schedule 1 for the calculation of the amount owing.

17. The Tenants may also make a motion at the LTB to void this order under section 74(11) of the Act, if the Tenants have paid the full amount owing as ordered plus any additional rent that became due after May 31, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.
18. **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 May 31, 2023.**
19. If the Tenants do not void the order, the Tenants shall pay to the Landlords \$17,377.83. 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 Tenants. See Schedule 1 for the calculation of the amount owing.
20. The Tenants shall also pay the Landlords compensation of \$68.21 per day for the use of the unit starting April 25, 2023 until the date the Tenants moves out of the unit.
21. If the Tenants do not pay the Landlords the full amount owing on or before May 7, 2023, the Tenants will start to owe interest. This will be simple interest calculated from May 8, 2023 at 6.00% annually on the balance outstanding.
22. The Landlords or the Tenants shall pay to the other any sum of money that is owed as a result of this order.
23. If the unit is not vacated on or before May 31, 2023, then starting June 1, 2023, the Landlords may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
24. 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 1, 2023.

**April 26, 2023**

**Date Issued**

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Jagger Benham

Member, Landlord 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 1, 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 April 30, 2023**

Rent Owing To April 30, 2023	\$20,442.40
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$793.20
<b>Total the Tenants must pay to continue the tenancy</b>	<b>\$19,835.20</b>

**B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before May 7, 2023**

Rent Owing To May 31, 2023	\$22,517.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenants paid to the Landlords since the application was filed	- \$793.20
<b>Total the Tenants must pay to continue the tenancy</b>	<b>\$21,909.80</b>

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

Rent Owing To Hearing Date	\$20,004.84
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenants paid to the Landlords since the application was filed	- \$793.20
<b>Less</b> the amount of the last month's rent deposit	- \$2,000.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$19.81
<b>Total amount owing to the Landlords</b>	<b>\$17,377.83</b>
Plus daily compensation owing for each day of occupation starting April 25, 2023	\$68.21 (per day)