



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

Citation: Ajula v Wood, 2023 ONLTB 31941

Date: 2023-04-24

File Number: LTB-L-025181-22

In the matter of: 150 WILSON AVE
LONDON ON N6H1X7

Between: Sanveer Ajula Landlord

And

Bradley Dibbley, Brayden Hackeson and Tenants
Jordan Wood

Sanveer Ajula (the 'Landlord') applied for an order to terminate the tenancy and evict Bradley Dibbley, Brayden Hackeson and Jordan Wood (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on March 23, 2023.

The Landlord and the Landlord's legal representative Carmen Dawdy attended the hearing. and the Tenant attended the hearing. As of 1:56 pm, 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 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. The Tenants were in possession of the rental unit on the date the application was filed.
3. The Tenants vacated the rental unit on January 25, 2023. Rent arrears are calculated up to the date the Tenant vacated the unit.
4. The lawful rent is \$1,800.00. It was due on the 1st day of each month.
5. Based on the Monthly rent, the daily rent/compensation is \$59.18. This amount is calculated as follows: \$1,800.00 x 12, divided by 365 days.

6. The Tenants have not made any payments since the application was filed.
7. The rent arrears and compensation owing to January 25, 2023 are \$19,479.50.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlord collected a rent deposit of \$1,750.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit is applied to the arrears of rent because the tenancy terminated.
10. Interest on the rent deposit, in the amount of \$42.34 is owing to the Tenant for the period from August 1, 2021 to January 25, 2023.

Landlord's entitlement to rent arrears and compensation after the Tenants vacated

11. The Landlord testified that the Tenants abandoned the rental unit on January 25, 2023. The Landlord relies on a letter dated January 4, 2023 from London Hydro which notes the Tenants requested a final meter reading for January 13, 2023. The Landlord stated that his cousin delivered the Notice of Hearing to the rental unit on January 24, 2023. The Landlord stated he attended the rental unit on January 25, 2023 which was an extremely cold day and the heat was turned off inside of the rental unit. The Landlord stated there were no personal belongings inside the rental unit. He stated that a kitchen table, a wardrobe and a few garbage bags remained inside the rental unit. He stated the cupboards were empty and the refrigerator was unplugged. The Landlord stated that he received a text message from one of the Tenants Brayden Hackeson on January 29, 2023 that the Tenants were still in possession of the rental unit.
12. The Landlord requested rent arrears up to March 31, 2023 and stated the Tenants did not provide the Landlord with any notice that they were terminating the tenancy, they did not return the keys to the Landlord and the tenancy had not been terminated by the Board so the Landlord could not re-rent the unit.

Analysis

13. Board Interpretation Guideline 11 states in part the following:
14. In some cases, the evidence may establish that the tenant moved out of the rental unit after the application was filed, but before the hearing date. In that case, the Board's order will generally include a determination that the tenancy ended on the date the tenant moved out. Further, the order will generally: (1) end the tenancy effective the date the tenant moved out of the rental unit without ordering enforcement through the Sheriff's Office; and (2) require the tenant to pay arrears up to the date specified in the termination notice, and lump sum compensation for use of the unit from the termination date in the notice to the date the tenancy ended. Unlike orders for arrears and termination where the tenant is in possession of the unit on the hearing date, the order would not provide the tenant with an opportunity to continue the tenancy by paying all of the arrears by a specified date. Moreover, as there is a finding that the tenancy has ended, the tenant's rent deposit and

interest owing on it will be deducted from the arrears and compensation ordered to the landlord. [Emphasis added.]

15. Under s. 86 of the *Residential Tenancies Act, 2006* (the “Act”) the Landlord is not entitled to “rent” after the termination date but “compensation for the use and occupation of a rental unit by a tenant who does not vacate the unit after his or her tenancy is terminated by order, notice or agreement”.
16. The N4 Notice of Termination (“notice”) terminated the tenancy because the Tenants failed to void the notice and the Landlord filed an L1 application with the Board, seeking an order which confirms that termination and to evict the Tenants pursuant to s. 69 of the Act. The Landlord is entitled to the rent arrears to the termination date specified in the notice under s. 87 of the Act and for compensation for the occupation of the rental unit by a tenant who does not vacate the unit after the tenancy is terminated by order, notice or agreement under s. 86 of the Act.
17. I find the tenancy is terminated as of January 25, 2023. I accept the Landlord’s testimony which I found to be credible that the Tenants had vacated the rental unit on this date and were no longer occupying the rental unit after that date. I do not find it plausible that the Tenants were residing in rental unit without any heat or their personal belongings. Therefore, I find that the Landlord would not be entitled to further compensation after January 25, 2023. This is consistent with the Board’s Interpretation Guideline 11. Further, s.s 88(1) of the Act clearly sets out that the determination of arrears of rent owing by a tenant who abandons or vacates a rental unit without giving notice of termination in accordance with the Act only occurs if “the landlord has not given notice to terminate the tenancy”.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated as of January 25, 2023, the date the Tenants moved out of the rental unit
2. The Tenants shall pay to the Landlord \$17,873.16. This amount includes rent arrears and compensation 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 May 5, 2023, the Tenants will start to owe interest. This will be simple interest calculated from May 6, 2023 at 6.00% annually on the balance outstanding.

April 24, 2023

Kimberly Parish

Member, Landlord and Tenant Board

Date Issued

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 Tenants must pay as the tenancy is terminated

Rent Owing To Move Out Date	\$19,479.50
Application Filing Fee	\$186.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$1,750.00
Less the amount of the interest on the last month's rent deposit	- \$42.34
Total amount owing to the Landlord	\$17,873.16