



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

**Citation:** Lupia v Wilson, 2023 ONLTB 31501

**Date:** 2023-04-20

**File Number:** LTB-L-003277-23

**In the matter of:** 28, 86 St. Paul St. S  
St. Catharines Ontario L2R3M2

**Between:** 1277733 Ontario Limited Landlords  
Tina Lupia

**And**

Jessica Beaudry Tenants Troy Wilson

1277733 Ontario Limited and Tina Lupia (the 'Landlords') applied for an order to terminate the tenancy and evict Jessica Beaudry and Troy Wilson (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on March 28, 2023.

The Landlord Tina Lupia and Darlene Pearson attended the hearing.

**Determinations:**

1. The application as filed also as named Darlene Pearson as a Tenant. Darlene Pearson testified that she is the guarantor for the Tenants and has never resided at the rental unit.
2. Darlene Pearson sent in a copy of the lease which clearly stated the Tenants as Jessica Beaudry and Troy Wilson. There is a Guarantor form attached with the lease agreement where Darlene Pearson signed as a guarantor only, not an occupant or a Tenant.
3. The application is amended to remove Darlene Pearson as a Tenant. A guarantor cannot be named as a respondent on a rent arrears application. (See LTB Interpretation Guideline 11.) As a result, the application proceeded on an uncontested basis.
4. 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.

5. As of the hearing date, the Tenants were still in possession of the rental unit.
6. The lawful rent is \$1,200.00. It is due on the 1st day of each month.
7. Based on the Monthly rent, the daily rent/compensation is \$39.45. This amount is calculated as follows: \$1,200.00 x 12, divided by 365 days.
8. The Tenants has paid \$2,150.00 to the Landlords since the application was filed.
9. The rent arrears owing to March 31, 2023 are \$9,850.00.
10. The Landlords incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.
11. The Landlords collected a rent deposit of \$1,200.00 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.
12. Interest on the rent deposit, in the amount of \$24.74 is owing to the Tenants for the period from June 1, 2022 to March 28, 2023.
13. 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 Landlords 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.

**It is ordered that:**

1. The tenancy between the Landlords 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 Landlords or to the LTB in trust:**
    - \$11,251.00 if the payment is made on or before April 30, 2023. See Schedule 1 for the calculation of the amount owing.
- OR**
- \$12,451.00 if the payment is made on or before May 1, 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 May 1, 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 does not pay the amount required to void this order the Tenants must move out of the rental unit on or before May 1, 2023**
5. If the Tenants does not void the order, the Tenants shall pay to the Landlords \$8,730.86. 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.
6. The Tenants shall also pay the Landlords compensation of \$39.45 per day for the use of the unit starting March 29, 2023 until the date the Tenants moves out of the unit.
7. If the Tenants does not pay the Landlords the full amount owing on or before May 1, 2023, the Tenants will start to owe interest. This will be simple interest calculated from May 2, 2023 at 6.00% annually on the balance outstanding.
8. The Landlords or the Tenants shall pay to the other any sum of money that is owed as a result of this order.
9. If the unit is not vacated on or before May 1, 2023, then starting May 2, 2023, the Landlords may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
10. 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 May 2, 2023.

**April 20, 2023**

**Date Issued**

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Sheena Brar

Member, Landlords 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 November 2, 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   | \$13,200.00        |
| Application Filing Fee   | \$201.00           |
| NSF Charges  | \$0.00             |
| <b>Less</b> the amount the Tenants paid to the Landlords since the application was filed | - \$2,150.00       |
| <b>Less</b> the amount the Tenants paid into the LTB since the application was filed     | - \$0.00           |
| <b>Less</b> the amount the Landlords owes the Tenants for an{abatement/rebate}           | - \$0.00           |
| <b>Less</b> the amount of the credit that the Tenants is entitled to                     | - \$0.00           |
| <b>Total the Tenants must pay to continue the tenancy</b>                                | <b>\$11,251.00</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 1, 2023**

|  |                    |
|--|--------------------|
| Rent Owing To May 31, 2023   | \$14,400.00        |
| Application Filing Fee   | \$201.00           |
| NSF Charges  | \$0.00             |
| <b>Less</b> the amount the Tenants paid to the Landlords since the application was filed | - \$2,150.00       |
| <b>Less</b> the amount the Tenants paid into the LTB since the application was filed     | - \$0.00           |
| <b>Less</b> the amount the Landlords owes the Tenants for an{abatement/rebate}           | - \$0.00           |
| <b>Less</b> the amount of the credit that the Tenants is entitled to                     | - \$0.00           |
| <b>Total the Tenants must pay to continue the tenancy</b>                                | <b>\$12,451.00</b> |

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

|  |              |
|--|--------------|
| Rent Owing To Hearing Date   | \$11,904.60  |
| Application Filing Fee   | \$201.00     |
| NSF Charges  | \$0.00       |
| <b>Less</b> the amount the Tenants paid to the Landlords since the application was filed | - \$2,150.00 |
| <b>Less</b> the amount the Tenants paid into the LTB since the application was filed     | - \$0.00     |
| <b>Less</b> the amount of the last month's rent deposit                                  | - \$1,200.00 |
| <b>Less</b> the amount of the interest on the last month's rent deposit                  | - \$24.74    |
| <b>Less</b> the amount the Landlords owes the Tenants for an {abatement/rebate}          | - \$0.00     |
| <b>Less</b> the amount of the credit that the Tenants is entitled to                     | - \$0.00     |

|  |                      |
|--|----------------------|
| <b>Total amount owing to the Landlords</b>                                       | <b>\$8,730.86</b>    |
| Plus daily compensation owing for each day of occupation starting March 29, 2023 | \$39.45<br>(per day) |