



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

Citation: Weinbrenner Place Inc. v Rizzotti, 2023 ONLTB 30736

Date: 2023-04-12

File Number: LTB-L-041372-22

In the matter of: 9, 196 CUSHMAN RD
ST CATHARINES ON L2M7C7

Between: Weinbrenner Place Inc. Landlord

And

Angelina Rizzotti and Giuseppe Rizzotti Tenants

Weinbrenner Place Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Angelina Rizzotti and Giuseppe Rizzotti (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

The Landlord also claimed charges related to NSF cheques.

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

Only the Landlord's representative G Fuccillo attended the hearing.

As of 1:28 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. As of the hearing date, the Tenants were still in possession of the rental unit.

3. The lawful rent is \$2,255.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$74.14. This amount is calculated as follows: \$2,255.00 x 12, divided by 365 days.
5. The Tenants have paid \$17,900.00 to the Landlord since the application was filed.

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6. The rent arrears owing to February 28, 2023 are \$2,100.00.
7. The Landlord is entitled to \$15.00 to reimburse the Landlord for administration charges and \$5.00 for bank fees the Landlord incurred as a result of 1 cheque given by or on behalf of the Tenants which was returned NSF.
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 \$2,200.00 from the Tenants and this deposit is still being held by the Landlord. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
10. Interest on the rent deposit, in the amount of \$56.81 is owing to the Tenants for the period from February 16, 2022 to February 27, 2023.
11. The Landlord's representative said that prior to the hearing, the Tenants agreed to a payment plan of \$250.00 on or before the 20th of each month for eight months and a final payment of \$306.00 in the ninth month. The Tenants also agreed to pay the regular monthly rent as it becomes due for the duration of the payment plan.
12. 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 grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.

It is ordered that:

1. The Tenants shall pay the Landlord **\$2,306.00**, which represents the arrears of rent and costs outstanding for the period ending February 28, 2023.
2. The Landlord's application for eviction of the Tenants is denied on the condition that:
 - (a) The Tenants shall pay installments of **\$250.00** on or before the 20th day of the month for the eight (8) month period commencing April 20, 2023 to November 20, 2023.

- (b) The remaining balance of **\$306.00** shall be paid on or before December 20, 2023.
 - (c) The Tenants shall pay the Landlord the monthly rent for the months of April 2023 to December 2023 in full and by the **first day** of each corresponding month.
3. If the Tenants fail to make any of the payments in accordance with paragraph 2, and by the dates required then:

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- (a) The Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the "Act") for an order terminating the tenancy and evicting the Tenants and for the payment of any new arrears of rent and NSF charges not already ordered under paragraph 1 of this order. The Landlord must make the application within 30 days of a breach of a condition set out in paragraph 2 of this order.
- (b) The balance owing under paragraph 1 of this order shall become payable on the day following the date of default. The monies owing shall bear interest at the post-judgment interest rate determined under subsection 207(7) of the Act.

April 12, 2023 _____ **Date Issued**

Heather Kenny

Member, Landlord 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.