



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

Citation: Centurion Property Associates Inc. v Milonas, 2023 ONLTB 29924

Date: 2023-04-12

File Number: LTB-L-046826-22

In the matter of: 105, 2 BIGGIN CRT
Toronto ON M4A1M4

Between: Centurion Property Associates Inc. Landlord

And

Elsa Milonas Tenants
Nickolas Milonas

Centurion Property Associates Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Elsa Milonas and Nickolas Milonas (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on March 27, 2023. Only the Landlord's legal representative, Martin Zarnett, attended the hearing. As of 9:53am, 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 4, 2023. Rent arrears are calculated up to the date the Tenants vacated the unit.
4. The lawful rent is \$1,983.52. It was due on the 1st day of each month.
5. The Tenants have not made any payments since the application was filed.
6. The rent arrears owing to January 4, 2023 are \$13,325.65.

7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$2,030.00 from the Tenants and this deposit is still being held by the Landlord. The rent deposit is applied to the arrears of rent because the tenancy terminated.

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9. Interest on the rent deposit, in the amount of \$12.27 is owing to the Tenants for the period from January 1, 2022 to January 4, 2023.
10. The NSF charges claimed by the Landlord related to electronic fund transfers rather than NSF cheques. Since subsection 87(5) of the *Residential Tenancies Act, 2006*, does not provide a remedy for electronic fund transfers that fail due to non-sufficient funds, the Landlord's claim for NSF charges is denied.
11. It was the Landlord's evidence that the named Tenant, Elsa Milonas, had filed an assignment in bankruptcy on or about October 6, 2022 and that there would be a stay on the enforcement for the judgment for arrears against them. However, the other named Tenant, Nickolas Milonas, was not included in the bankruptcy and had not otherwise filed for an assignment in bankruptcy. On this basis, I see no reason to deny the Landlords application.
12. Since the application deals with both termination of the tenancy and an order for arrears, I see no reason to exclude Elsa Milonas as a party to this order as it pertains to termination of the tenancy.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated as of January 4, 2023, the date the Tenants moved out of the rental unit
2. The Tenant shall pay to the Landlord \$11,469.38. This amount includes rent arrears 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 Tenant. See Schedule 1 for the calculation of the amount owing.
3. If the Tenant does not pay the Landlord the full amount owing on or before April 23, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 24, 2023 at 6.00% annually on the balance outstanding.

April 12, 2023
Date Issued

Terri van Huisstede
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.

*Note: When the LTB directs payment-out, the Canadian Imperial Bank of Commerce will issue a cheque to the appropriate party named in this notice. The cheque will be in the amount directed plus any interest accrued up to the date of the notice.

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**Schedule 1
SUMMARY OF CALCULATIONS**

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

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|--|--------------------|
| Rent Owing To Move Out Date | \$13,325.65 |
| Application Filing Fee | \$186.00 |
| NSF Charges | \$0.00 |
| Less the amount the Tenant paid to the Landlord since the application was filed | - \$0.00 |
| Less the amount the Tenant paid into the LTB since the application was filed | - \$0.00 |
| Less the amount of the last month's rent deposit | - \$2,030.00 |
| Less the amount of the interest on the last month's rent deposit | - \$12.27 |
| Less the amount the Landlord owes the Tenant for an {abatement/rebate} | - \$0.00 |
| Less the amount of the credit that the Tenant is entitled to | - \$0.00 |
| Total amount owing to the Landlord | \$11,469.38 |

