



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

**Citation:** Equiton Residential Income Fund LP. v Filice, 2023 ONLTB 29374

**Date:** 2023-04-05

**File Number:** LTB-L-050106-22

**In the matter of:** 437, 50 CATHCART ST N. HAMILTON  
ON L8R3J7

**Between:** Equiton Residential Income Fund LP. Landlord

**And**

Jordan Winship Tenants Mikelle Filice

Equiton Residential Income Fund LP. (the 'Landlord') applied for an order to terminate the tenancy and evict Jordan Winship and Mikelle Filice (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 Daniel Abraham attended the hearing.

As of 1:39 p.m., 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. Since the Tenants did not attend and the Landlord was prepared to proceed, the matter proceeded by way of an uncontested hearing pursuant to section 7 of the *Statutory Powers Procedure Act*, R.S.O. 1990.

**Determinations:**

1. At the hearing the Landlord's Legal Representative relied on oral submissions and referred to documents to support their application.
2. 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.
3. The Tenants were in possession of the rental unit on the date the application was filed.
4. The Tenants vacated the rental unit on November 21, 2022. Rent arrears are calculated up to the date the Tenants vacated the unit.

5. The lawful rent was \$1,010.98. It was due on the 1st day of each month.
6. The Tenants have not made any payments since the application was filed.
7. The rent arrears owing to November 21, 2022 are \$3,708.96.

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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 \$999.00 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.
10. Interest on the rent deposit, in the amount of \$10.68 is owing to the Tenants for the period from March 30, 2021 to November 21, 2022.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenants is terminated as of November 21, 2022, the date the Tenants moved out of the rental unit
2. The Tenants shall pay to the Landlord \$2,885.28. 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 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 April 16, 2023, the Tenants will start to owe interest. This will be simple interest calculated from April 17, 2023 at 6.00% annually on the balance outstanding.

**April 5, 2023**

**Date Issued**

\_\_\_\_\_  
John Cashmore

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.

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**Schedule 1**  
**SUMMARY OF CALCULATIONS**

**A. Amount the Tenants must pay as the tenancy is terminated**

Rent Owing To Move Out Date	\$3,708.96
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$0.00
<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	- \$999.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$10.68
<b>Less</b> the amount the Landlord owes the Tenants for an {abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenants are entitled to	- \$0.00
<b>Total amount owing to the Landlord</b>	<b>\$2,885.28</b>

