



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

Citation: Pace v Rodgers, 2023 ONLTB 27610

Date: 2023-03-29

File Number: LTB-L-047826-22

In the matter of: 769 JACKSONVILLE RD SS 301 WILLOW
BEACH ON L0E1S0

Between: Anna Maria Pace Landlord

And

Dave Rodgers and Mellissa Rodgers Tenants

Anna Maria Pace (the 'Landlord') applied for an order to terminate the tenancy and evict Dave Rodgers and Mellissa Rodgers (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe. (L1 application)

This L1 application was heard by videoconference on March 15, 2023.

Only the Landlord attended the hearing.

As of 3:22 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 \$1,720.40. It is due on the 1st day of each month.

4. Based on the monthly rent, the daily rent/compensation is \$56.56. This amount is calculated as follows: $\$1,720.40 \times 12$, divided by 365 days.
5. The Tenants have paid \$5,161.23 to the Landlord since the L1 application was filed.
6. The rent arrears owing to March 31, 2023 are \$10,322.37.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

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8. The Landlord collected a rent deposit of \$1,550.00 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.
9. Interest on the rent deposit, in the amount of \$122.94 is owing to the Tenants for the period from October 31, 2017 to March 15, 2023.
10. The Landlord stated that the parties were before the LTB on March 9, 2023 (LTB-L039303-22) and that the LTB is going to issue an order to terminate the tenancy on April 30, 2023. As a result, the Landlord stated she is not looking for an eviction order under this application; instead, she requested an order for arrears only. As the Landlord's request did not present any prejudice to the Tenants, I consented to the Landlord's request to narrow this L1 application into an arrears-only application.
11. The order below does not specifically address the \$10,322.37 owing to March 31, 2023 (from paragraph 6 above), which is normally done when an eviction order is being sought by a landlord. Instead, the order below sets out the amount of arrears owing to the date of this hearing (i.e. March 15, 2023) and then provides the parties the means to calculate rents owing going forward using a *per diem* (compensation) calculation.

It is ordered that:

1. The Tenants shall pay to the Landlord \$7,963.43. This amount includes rent arrears owing up to the date of the hearing (March 15, 2023) and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenants. See Schedule 1 for the calculation of the amount owing.
2. The Tenants shall also pay the Landlord compensation of \$56.56 per day for the use of the unit starting March 16, 2023 until the date the Tenants move out of the unit.
3. If the Tenants do not pay the Landlord the full amount owing on or before April 30, 2023, the Tenants will start to owe interest. This will be simple interest calculated from April 30, 2023 at 5.00% annually on the balance outstanding.

4. The Landlord or the Tenants shall pay to the other any sum of money that is owed as a result of this order.

March 29, 2023 _____

Date Issued

Alex Brkic
Member, Landlord and Tenant 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.

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**Schedule 1
SUMMARY OF CALCULATIONS**

A. Amount the Tenants must pay to the Landlord

Rent Owing as Given in the L1 Application (to Aug 31/22)	\$3,440.80
Rent Owing From Sept 1/22 to Feb 28/23 (6 months)	\$10,322.40
Rent Owing 15 days in March/23 (\$56.56/day x 15 days)	\$848.40
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$5,161.23
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$1,550.00
Less the amount of the interest on the last month's rent deposit	- \$122.94
Total amount owing to the Landlord (up to March 15, 2023)	\$7,963.43
Plus daily compensation owing for each day of occupation starting March 16, 2023	\$56.56 (per day)