



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

**Citation:** Melvin Apartments Inc v Thomas, 2023 ONLTB 27334

**Date:** 2023-03-27

**File Number:** LTB-L-035032-22

**In the matter of:** 408, 221 MELVIN AVE  
HAMILTON ON L8H2K1

**Between:** Melvin Apartments Inc Landlord

**And**

Ashley Tayler Thomas and Percy Kuruliak Tenants

Melvin Apartments Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Ashley Tayler Thomas and Percy Kuruliak (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 1, 2023.

The Landlord's agent, R. Brahmbatt, and the Tenant, A. Tayler, attended the hearing.

### **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 \$1,486.25. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$48.86. This amount is calculated as follows: \$1,486.25 x 12, divided by 365 days.
5. The Tenants have paid \$1,450.00 to the Landlord since the application was filed.

6. The rent arrears owing to February 28, 2023 are \$13,456.41.
7. The Landlord is entitled to \$157.50 to reimburse the Landlord for administration charges and bank fees the Landlord incurred as a result of cheques given by or on behalf of the Tenants which were 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 \$1,450.00 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 \$38.53 is owing to the Tenants for the period from January 10, 2022 to February 1, 2023.
11. The Tenant said that she wishes to remain in the rental unit, and she would pay the rent in full and on time going forward. She said that welfare cut her off, and that made her unable to pay the rent. She also said that she had roommates who were helping pay the rent, and they moved out.
12. The Tenant said that she is again receiving Ontario Works. She said that her income is \$1,400.00, and that she has a roommate who will pay \$700.00 towards the rent each month. She said that she can make up to \$350.00 per month doing cleaning jobs as well.
13. The Tenant proposed to pay \$700.00 in addition to the rent each month towards the arrears.
14. The Landlord seeks a standard termination order. The Landlord's agent submitted into evidence written communication to the Tenants, dated July 13, 2022, in which the Landlord proposed a payment plan to repay the arrears. He also said that he knocks on the Tenants' door every month to discuss the arrears, and he said that the Tenants offer the same payment plan every month, but they have only paid one month's rent since October 2022. The Landlord's agent also said that the Tenants have only paid the equivalent of 2 months of rent since they moved into the rental unit.
15. 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 Landlord attempted to negotiate a repayment agreement, and I find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. In particular, the Tenants have only paid two months of rent since they moved in, they have paid one month's rent in the 8 months since the Landlord filed the application, and they have no written evidence of their income. Even the income reported by the Tenant at the hearing is insufficient to pay the monthly rent in full and on time going forward. Consequently, I find that it is prejudicial to the Landlord for the tenancy to continue.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenants is terminated unless the Tenants void this order.
2. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
  - \$15,286.16 if the payment is made on or before March 31, 2023. See Schedule 1 for the calculation of the amount owing.
- OR**
- \$16,772.41 if the payment is made on or before April 7, 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 have paid the full amount owing as ordered plus any additional rent that became due after April 7, 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 do not pay the amount required to void this order the Tenants must move out of the rental unit on or before April 7, 2023.**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$10,873.99. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application and unpaid NSF charges. 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.
6. The Tenants shall also pay the Landlord compensation of \$48.86 per day for the use of the unit starting February 2, 2023 until the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before April 7, 2023, the Tenants will start to owe interest. This will be simple interest calculated from April 8, 2023 at 5.00% annually on the balance outstanding.
8. The Landlord 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 April 7, 2023, then starting April 8, 2023, the Landlord 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 Landlord on or after April 8, 2023.

**March 27, 2023**

**Date Issued**

---

**Nancy Morris**

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.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on October 8, 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 March 31, 2023**

Rent Owing To March 31, 2023	\$16,392.66
Application Filing Fee	\$186.00
NSF Charges	\$157.50
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$1,450.00
<b>Less</b> the amount the Tenants paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the 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 the Tenants must pay to continue the tenancy</b>	<b>\$15,286.16</b>

**B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before April 7, 2023**

Rent Owing To April 30, 2023	\$17,878.91
Application Filing Fee	\$186.00
NSF Charges	\$157.50
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$1,450.00
<b>Less</b> the amount the Tenants paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount the 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 the Tenants must pay to continue the tenancy</b>	<b>\$16,772.41</b>

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

Rent Owing To Hearing Date	\$13,469.02
Application Filing Fee	\$186.00

NSF Charges	\$157.50
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$1,450.00
<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	- \$1,450.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$38.53
<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>\$10,873.99</b>
Plus daily compensation owing for each day of occupation starting February 2, 2023	\$48.86 (per day)