



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

Citation: Chau v Smith, 2023 ONLTB 25490

Date: 2023-03-13

File Number: LTB-L-043382-22

In the matter of: 1210, 2379 Central Park Drive Oakville
ON L6H0E4

Between: Wayland Chau Landlord

And

Damian Charles Smith Tenants Lisa Celine Desmarais

Wayland Chau (the 'Landlord') applied for an order to terminate the tenancy and evict Damian Charles Smith and Lisa Celine Desmarais (the 'Tenants') because the Tenants did not pay the rent that the Tenants owes.

This application was heard by videoconference on March 2, 2023.

Only the Landlord attended the hearing.

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 October 7, 2022. Rent arrears are calculated up to the date the Tenants vacated the unit.
4. The lawful rent is \$1,800.00. It was due on the 15th day of each month.
5. The Tenants has not made any payments since the application was filed.
6. The rent arrears owing to October 7, 2022 are \$8,461.14.

- 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 \$1,800.00 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

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tenancy terminated. Despite an agreement or waiver to the contrary to apply the LMR to July 15, 2020 monthly rent charges, the Act prevails. The deposit cannot be used for any other purpose other than the last rental period of the tenancy.

- 9. The Landlord owes the Tenants \$103.67 interest on the last months rent deposit.

It is ordered that:

- 1. The tenancy between the Landlord and the Tenants is terminated as of October 7, 2022, the date the Tenants moved out of the rental unit
- 2. The Tenants shall pay to the Landlord \$6,743.47. 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 does not pay the Landlord the full amount owing on or before March 24, 2023, the Tenants will start to owe interest. This will be simple interest calculated from March 25, 2023 at 5.00% annually on the balance outstanding.

March 13, 2023 _____ **Date Issued**
 Sandra Macchione

Member, Landlord and Tenants 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	\$8,461.14
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$0.00
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	- \$1,800.00
Less the amount of the interest on the last month's rent deposit	- \$103.67
Less the amount the Landlord owes the Tenants for an {abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants is entitled to	- \$0.00
Total amount owing to the Landlord	\$6,743.47