



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

Citation: Pinto v Fitzsimons, 2023 ONLTB 23669

Date: 2023-03-09

File Number: LTB-L-033437-22

In the matter of: 11, 1010 Kipps Lane London
ON N5Y4S5

Between: Joshua Pinto Landlord

And

Dale Fitzsimons and Karen Fitzsimons Tenant

Joshua Pinto (the 'Landlord') applied for an order to terminate the tenancy and evict Dale Fitzsimons and Karen Fitzsimons (the 'Tenants') because

- the Purchaser in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year.
- the Tenants did not pay the rent that the Tenants owes.

This application was heard by videoconference on February 22, 2023.

Only the Landlord attended the hearing.

As of 10:09 a.m., the Tenants was 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 requested to withdraw their L2/N12 application for Purchaser's own use. I consented to the request. The Board proceeded only on the Landlord's L1/N4 application.
2. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Nonpayment of Rent (N4 Notice). The Tenant 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 October 1, 2022. Rent arrears are calculated up to the date the Tenant vacated the unit.
5. The lawful rent was \$1,771.00.
6. The Tenants has not made any payments since the application was filed.

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7. The rent arrears owing to October 1, 2022 are \$5,313.00.
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 \$1,760.00 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 \$31.48 is owing to the Tenants for the period from April 6, 2020 to October 1, 2022.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated as of October 1, 2022, the date the Tenant moved out of the rental unit
2. The Tenants shall pay to the Landlord **\$3,707.52**. The Tenants owes the Landlord rent arrears owing up to the date the Tenants moved out of the rental unit and the cost of filing the application. 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 20, 2023, the Landlord will start to owe interest. This will be simple interest calculated from March 21, 2023 at 5.00% annually on the balance outstanding.

March 9, 2023

Anthony Bruno

Date Issued

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.

**Schedule 1
SUMMARY OF CALCULATIONS**

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

| | |
|--|-------------------|
| Rent Owing To Move Out Date | \$5,313.00 |
| 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 | - \$1,760.00 |
| Less the amount of the interest on the last month's rent deposit | - \$31.48 |
| 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 | \$3,707.52 |