



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

**Citation:** Wilson v Hill, 2023 ONLTB 22608

**Date:** 2023-03-03

**File Number:** LTB-L-037210-22

**In the matter of:** 1-86 Park Avenue  
St. Catharines, ON L2P 1R9

**Between:** Daniel Wilson Landlord

**And**

Lizabeth Hill      Tenants Raymond Calvin Hill

Daniel Wilson (the 'Landlord') applied for an order to terminate the tenancy and evict Lizabeth Hill and Raymond Calvin Hill (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on February 13, 2023.

The Landlord and the Tenants 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 \$2,255.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$74.14. This amount is calculated as follows: \$2,255.00 x 12, divided by 365 days.
5. The Tenants have paid \$5,500.00 to the Landlord since the application was filed.
6. The rent arrears owing to February 28, 2023 are \$18,910.00.

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 \$2,200.00 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 \$36.95 is owing to the Tenants for the period from December 6, 2020 to February 13, 2023.

*Section 83 Considerations*

10. The Landlord and the Tenants outlined that the Tenant Raymond Calvin Hill has had to deal with substantial health issues within the last year, including the amputation of a leg and fingers. The Landlord testified that he had reached out to Community Care, a housing service provider in the St. Catharines area that could assist the Tenants in repaying their arrears.
11. The Tenants testified that they both plan to try to find work within the coming months and are also looking at other revenue streams including an application for CPP.
12. The parties agreed to an extended standard order until the end of August to allow the Tenants time to repay the arrears and get back on track to pay their rent.
13. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to postpone the eviction until August 31, 2023 pursuant to subsection 83(1)(b) of the Act.

**It is ordered that:**

14. The tenancy between the Landlord and the Tenants is terminated unless the Tenants void this order.
15. **The Tenants may void this order and continue the tenancy by paying to the Landlord:**
  1. \$21,351.00 if the payment is made on or before March 31, 2023. See Schedule 1 for the calculation of the amount owing.
  - OR**
  2. \$23,606.00 if the payment is made on or before April 30, 2023. See Schedule 1 for the calculation of the amount owing.
  - OR**
  3. \$25,861.00 if the payment is made on or before May 31, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

4. \$28,116.00 if the payment is made on or before June 30, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

5. \$30,371.00 if the payment is made on or before July 31, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

6. \$32,626.00 if the payment is made on or before August 31, 2023. See Schedule 1 for the calculation of the amount owing.

16. 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 August 31, 2023 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.

**17. 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 August 31, 2023.**

18. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$15,567.87. This amount includes rent arrears owing up to the date of the hearing 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.

19. The Tenants shall also pay the Landlord compensation of \$74.14 per day for the use of the unit starting February 14, 2023 until the date the Tenants move out of the unit.

20. If the Tenants do not pay the Landlord the full amount owing on or before March 14, 2023, the Tenants will start to owe interest. This will be simple interest calculated from March 15, 2023 at 5.00% annually on the balance outstanding.

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

22. If the unit is not vacated on or before August 31, 2023, then starting September 1, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.

23. 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 September 1, 2023.

**March 3, 2023**

**Date Issued**

\_\_\_\_\_  
Jagger Benham

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 March 1, 2024 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	\$26,665.00
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$5,500.00
<b>Total the Tenants must pay to continue the tenancy</b>	<b>\$21,351.00</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 30, 2023**

Rent Owing To April 30, 2023	\$28,920.00
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$5,500.00
<b>Total the Tenants must pay to continue the tenancy</b>	<b>\$23,606.00</b>

**C. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before May 31, 2023**

Rent Owing To May 31, 2023	\$31,175.00
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$5,500.00
<b>Total the Tenants must pay to continue the tenancy</b>	<b>\$25,861.00</b>

**D. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before June 30, 2023**

Rent Owing To June 30, 2023	\$33,430.00
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$5,500.00
<b>Total the Tenants must pay to continue the tenancy</b>	<b>\$28,116.00</b>

**E. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before July 31, 2023**

Rent Owing To July 31, 2023	\$35,685.00
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$5,500.00
<b>Total the Tenants must pay to continue the tenancy</b>	<b>\$30,371.00</b>

**F. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before August 31, 2023**

Rent Owing To August 31, 2023	\$37,940.00
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$5,500.00
<b>Total the Tenants must pay to continue the tenancy</b>	<b>\$32,626.00</b>

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

Rent Owing To Hearing Date	\$23,118.82
Application Filing Fee	\$186.00
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$5,500.00
<b>Less</b> the amount of the last month's rent deposit	- \$2,200.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$36.95
<b>Total amount owing to the Landlord</b>	<b>\$15,567.87</b>
Plus daily compensation owing for each day of occupation starting February 14, 2023	\$74.14 (per day)