



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

Citation: Nia-kathoni v Errol, 2023 ONLTB 22343

Date: 2023-02-22

File Number: LTB-L-039836-22

In the matter of: 353 WILLOW ASTER CIR ORLEANS
ON K4A1C8

Between: Liliane Nzunogera Landlords
Nia Nia-kathoni

And

Marisha Manning Tenants Errol Samuels

Liliane Nzunogera and Nia Nia-kathoni (the 'Landlords') applied for an order to terminate the tenancy and evict Marisha Manning and Errol Samuels (the 'Tenants') because the Tenants did not pay the rent that the Tenant owes.

This application was heard by videoconference on February 16, 2023 at 09:00 am.

The Landlords, the Landlord Representative Tim Kelly and the Tenant Marisha Manning attended the hearing

Preliminary Issue:

1. At the outset of the hearing the Tenant requested an adjournment so that the Landlord's application could be heard with their T2 and T6 Applications. It was their position that the abatements they were requesting would significantly offset the arears owing. They were also requesting the adjournment so that they could consult legal counsel.
2. The Landlord Representative opposed an adjournment citing the Tenants had ample time to make such a request, since the Landlord filed their application on July 16, 2022 and the Tenants had waited to file their Applications until October 05, 2022. He further submitted that given the Tenants had filed their Applications there be little prejudice to them whereas given the undisputed arears owing, the Landlord's would be prejudiced by any further delay in resolving their application before me.
3. The Tenant explained they hadn't previously requested to have the applications combined or provided disclosure in accordance with the Board rules due to not knowing the rules and

procedures. It was also their position that they had filed their T2 Application prior to the Landlords Application.

4. Having considered the circumstances presented before I denied the adjournment. The Tenants did not dispute the arrears claimed by the Landlord and the tenancy has already terminated. Having reviewed the applications, I find that the Tenants did not file their Applications until after the Landlords. The Landlords are entitled to have their application heard in a timely manner and delaying the hearing would be prejudicial. If the Tenants are ultimately successful in their application as amounts awarded must be applied to the arrears awarded below.

Agreed Facts:

5. 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.
6. The Tenants were in possession of the rental unit on the date the application was filed.
7. The Tenants vacated the rental unit on January 3, 2023. Rent arrears are calculated up to the date the Tenants vacated the unit.
8. The lawful rent is \$2,150.00. It was due on the 1st day of each month.
9. The Tenants have not made any payments since the application was filed.
10. The rent arrears owing to January 3, 2023 are \$11,212.32.
11. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
12. The Landlord collected a rent deposit of \$2,150.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit is applied to the arrears of rent because the tenancy terminated.
13. Interest on the rent deposit, in the amount of \$25.80 is owing to the Tenants for the period from November 21, 2021 to January 03, 2023.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated as of January 3, 2023, the date the Tenant moved out of the rental unit
2. The Tenants shall pay to the Landlord \$9,222.52. 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 do not pay the Landlord the full amount owing on or before March 19, 2023, the Tenants will start to owe interest. This will be simple interest calculated from March 20, 2023 at 5.00% annually on the balance outstanding.

March 8, 2023

Date Issued

Kelly Delaney

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.

**Schedule 1
SUMMARY OF CALCULATIONS**

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

Rent Owing To Move Out Date	\$11,212.32
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	- \$2,150.00
Less the amount of the interest on the last month's rent deposit	- \$25.80
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	\$9,222.52