



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** Webster v Kontomerkos, 2023 ONLTB 20867

**Date:** 2023-02-14

**File Number:** LTB-L-001903-21

**In the matter of:** 1139 Quaker Road RR#1  
Oakwood Ontario K0M2M0

**Between:** Alan Webster Landlord

**And**

Anthanasios Kontomerkos and Sabrina Kontomerkos Tenants

Alan Webster (the 'Landlord') applied for an order to terminate the tenancy and evict Anthanasios Kontomerkos and Sabrina Kontomerkos (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on June 21, 2022.

The Landlord and the Tenants attended the hearing.

### Determinations:

1. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Non-payment 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 was still in possession of the rental unit.
3. The lawful rent is \$1,646.50. It is due on the 15th day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$54.13. This amount is calculated as follows:  $\$1,646.50 \times 12$ , divided by 365 days.
5. The Tenants has paid \$11,506.00 to the Landlord since the application was filed.
6. The rent arrears owing to July 14, 2022 are \$1,627.00.
7. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.
8. The Landlord collected a rent deposit of \$1,600.00 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 \$91.51 is owing to the Tenants for the period from January 15, 2018 to June 21, 2022.

#### Section 82 issues

10. S.B testified that there are issues with the well on the property that the Landlord has not addressed. She testified that the filter has not been changed since 2016 and that iron has built up on the pipes. She testified that this effects water flow to the kitchen and bathroom areas. She testified that she has attempted to advise the Landlord by email and heard no response. She attempted to call the Landlord on numerous occasions, but the Landlord does not answer the phone. She requested that the issue with the well and pipes be investigated and fixed by the Landlord.
11. The Landlord testified that he doesn't believe the Tenant and that the Tenant is lying. He testified that he doesn't have access to the email that was provided to the Tenant and testified that he did not advise the Tenant that the email address is no longer accessible to him. He testified that he did not receive any calls from the Tenant.
12. Based on the evidence before me, on a balance of probabilities, I find that the Landlord is in breach of their maintenance obligations with regard to the well and the issues flowing from it. I do not accept the Landlord's testimony that the Tenant is lying or did not reach out regarding the issue. The Tenant emailed the Landlord, and after no response, attempted to call the Landlord without success. I find it more likely that the Tenant attempted to reach out to have the issue resolved than not.
13. The Tenant requested that the issue with the well be investigated and fixed, an order will issue for the well to be inspected and fixed.

#### Relief from eviction

14. The Tenant testified that the arrears would be paid within a week of the hearing date.
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 with the Tenants and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

#### 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:**
  - \$13,353.50 (less any payments made since the hearing date) if the payment is made on or before February 14, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

- \$15,000.00 ( less any payments made since the hearing date) if the payment is made on or before March 9, 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 has paid the full amount owing as ordered plus any additional rent that became due after March 9, 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 March 9, 2023**
  5. As of the date of the hearing, the amount of the rent deposit and interest the Landlord owes on the rent deposit exceeds the arrears of rent, compensation and the cost of filing the application the Landlord is entitled to by \$1,004.10. See Schedule 1 for the calculation of the amount owing. However, the Landlord is authorized to deduct from the amount owing to the Tenants \$54.13 per day for compensation for the use of the unit starting June 22, 2022 until the date the Tenants moves out of the unit.
  6. The Landlord or the Tenants shall pay to the other any sum of money that is owed as a result of this order.
  7. If the unit is not vacated on or before March 9, 2023, then starting March 10, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
  8. 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 March 10, 2023.
  9. The Landlord shall inspect the well and make any necessary repairs by March 3, 2023.

**February 14, 2023****Date Issued**


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 Emily Robb

Member, Landlord and Tenants 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 August 26, 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 February 14, 2023**

Rent Owing To February 14, 2023	\$24,658.50
Application Filing Fee	\$201.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$11,506.00
<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 is entitled to	- \$0.00
<b>Total the Tenants must pay to continue the tenancy</b>	<b>\$13,353.50</b>

**B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before March 9, 2023**

Rent Owing To March 14, 2023	\$26,305.00
Application Filing Fee	\$201.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$11,506.00
<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 is entitled to	- \$0.00
<b>Total the Tenants must pay to continue the tenancy</b>	<b>\$15,000.00</b>

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

Rent Owing To Hearing Date	\$11,865.41
Application Filing Fee	\$201.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenants paid to the Landlord since the application was filed	- \$11,506.00
<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	- \$1,600.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$91.51
<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 is entitled to	- \$0.00
<b>Total amount owing to the Landlord</b>	<b>\$(1,332.10)</b>
Plus daily compensation owing for each day of occupation starting June 22, 2022	\$54.13 (per day)