



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

**Citation:** Adelaide Development v Tunbridge, 2023 ONLTB 15819

**Date:** 2023-01-24

**File Number:** LTB-L-024294-22

**In the matter of:** 46, 96 Isabella St Toronto  
ON M4Y1N4

**Between:** Adelaide Development Landlord

**And**

Christina Tunbridge and Robin Young Tenants

Adelaide Development (the 'Landlord') applied for an order to terminate the tenancy and evict Christina Tunbridge and Robin Young (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on January 4, 2023.

The Landlord's legal representative, P. Duwyn, 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 \$979.11. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$32.19. This amount is calculated as follows: \$979.11 x 12, divided by 365 days.
5. The Tenants have paid \$6,395.55 to the Landlord since the application was filed.
6. The rent arrears owing to January 31, 2023 are \$6,332.88.

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 \$853.00 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 \$14.66 is owing to the Tenants for the period from April 29, 2022 to January 4, 2023.
10. The Tenants said that they will be able to pay off the full amount of the arrears by June 30, 2023. They said that they run a business assembling bicycles for department stores, and they do not have much business over the winter months, and their income varies quite widely. They said that their business starts to pick up in February, and they earn up to \$5,000.00 per month when business is good. The Tenants said that the lockdowns during Covid were responsible for them getting behind in the rent.
11. The Tenants said that, alternatively, they could pay \$1,500.00 per month in total until June 30, 2023, when they would be able to pay off whatever remains of the arrears in full. They said that they have not paid anything since August 2022 because they have been living off of their savings. However, they said that they now have a number of contracts that will start in February 2023. They said that they have tried to negotiate a payment plan with the Landlord, but the Landlord has rejected their proposal.
12. The Tenants said that they have lived in the rental unit since 2007.
13. The Landlord submits that there has been no payment at all towards the rent since August 2022, and there is little to support the Tenants' contention that they will be able to pay off all the arrears by June 30, 2023. The Landlord submits that the Tenants have been in this situation before, when they owed almost \$9,000.00 in arrears that they paid in August 2021, and then they immediately went into arrears again. Consequently, the Landlord requests a standard termination order.
14. The Tenants have not provided any documentation at all to the Board to show how much income will they be receiving from contracts in the months following the hearing. They did make payments over and above the rent during the summer months of 2022, and then they paid nothing at all after August 2022. Their pattern of payment shows that they make more income during the summer. However, for the last two years, after the summer, they start to get into arrears, and since the summer of 2022, they failed to pay rent at all. There is no documentation to show that there will be any change in this pattern going forward, or that they can pay \$1,500.00 per month until June 2023. There is no credible evidence that the Tenants have attempted to propose a reasonable repayment plan that was rejected by the Landlord. Consequently, I find that this is no longer a viable tenancy.
15. I have considered all of the disclosed circumstances above in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), in particular, the long length of the tenancy, and I find that it would not be unfair to postpone the eviction until February 28,

2023 pursuant to subsection 83(1)(b) of the Act, in order to permit the Tenants more time to find an alternative place to live.

**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:**
  - \$6,518.88 if the payment is made on or before January 31, 2023. See Schedule 1 for the calculation of the amount owing.

**OR**

- \$7,497.99 if the payment is made on or before February 28, 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 have paid the full amount owing as ordered plus any additional rent that became due after February 28, 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 February 28, 2023.**
  5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$4,800.87. 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.
  6. The Tenants shall also pay the Landlord compensation of \$32.19 per day for the use of the unit starting January 5, 2023 until the date the Tenants move out of the unit.
  7. If the Tenants do not pay the Landlord the full amount owing on or before February 28, 2023, the Tenants will start to owe interest. This will be simple interest calculated from March 1, 2023 at 5.00% annually on the balance outstanding.
  8. The Landlord or the Tenants shall pay to the other any sum of money that is owed as a result of this order.
  9. If the unit is not vacated on or before February 28, 2023, then starting March 1, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.

10. 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 1, 2023.

**January 24, 2023**

**Date Issued**

\_\_\_\_\_  
 Nancy Morris  
 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 September 1, 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 January 31, 2023**

|   |                   |
|---|-------------------|
| Rent Owing To January 31, 2023  | \$12,728.43       |
| Application Filing Fee  | \$186.00          |
| NSF Charges   | \$0.00            |
| <b>Less</b> the amount the Tenants paid to the Landlord since the application was filed | - \$6,395.55      |
| <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 are entitled to                   | - \$0.00          |
| <b>Total the Tenants must pay to continue the tenancy</b>                               | <b>\$6,518.88</b> |

**B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before February 28, 2023**

|                                 |             |
|---------------------------------|-------------|
| Rent Owing To February 28, 2023 | \$13,707.54 |
| Application Filing Fee          | \$186.00    |

|   |                   |
|---|-------------------|
| NSF Charges   | \$0.00            |
| <b>Less</b> the amount the Tenants paid to the Landlord since the application was filed | - \$6,395.55      |
| <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 are entitled to                   | - \$0.00          |
| <b>Total the Tenants must pay to continue the tenancy</b>                               | <b>\$7,497.99</b> |

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

|   |                      |
|---|----------------------|
| Rent Owing To Hearing Date  | \$11,878.08          |
| Application Filing Fee  | \$186.00             |
| NSF Charges   | \$0.00               |
| <b>Less</b> the amount the Tenants paid to the Landlord since the application was filed | - \$6,395.55         |
| <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                                 | - \$853.00           |
| <b>Less</b> the amount of the interest on the last month's rent deposit                 | - \$14.66            |
| <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 are entitled to                   | - \$0.00             |
| <b>Total amount owing to the Landlord</b>   | <b>\$4,800.87</b>    |
| Plus daily compensation owing for each day of occupation starting January 5, 2023       | \$32.19<br>(per day) |