



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

Citation: RAMONA HOLDINGS LTD v Powers, 2023 ONLTB 14884

Date: 2023-01-12

File Number: LTB-L-025719-22

In the matter of: B, 556 JAMES ST. N
HAMILTON, ON L8L1J7

Between: RAMONA HOLDINGS LTD Landlord

And

Brian Powers Tenants
Anna Marie Gillam

RAMONA HOLDINGS LTD (the 'Landlord') applied for an order to terminate the tenancy and evict Brian Powers and Anna Marie Gillam (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on January 5, 2023. Only the Landlord's agent, Misty McMahon, attended the hearing. Neither of the Tenants attended the hearing although properly served with notice of the hearing by the Board. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

The application is amended to include the correct rental unit address in accordance with the N4 notice and the request to amend the application that was submitted in advance of the hearing. The Boards file reflects the correct address with regards to service of the hearing documents to the Tenants.

The application is further amended to reflect the correct spelling of the Tenants name from Gillam Anna Marie to Anna Marie Gillam as reflected on the N4 notice of termination.

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 as of June 1, 2022, is \$1,057.54. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$34.77. This amount is calculated as follows: \$1,057.54 x 12, divided by 365 days.
5. The Tenants have paid \$2,514.54 to the Landlord since the application was filed.
6. The rent arrears owing to January 31, 2023 are \$11,025.78.
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 \$1,045.00 from the Tenant 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 \$17.26 is owing to the Tenant for the period from November 1, 2020 to January 5, 2023.
10. The Landlord has reached out to the Tenants several times and knocked on their door in order to discuss the arrears and the potential for a repayment agreement. According to the Landlord, the Tenants had offered to pay an additional \$200 per month in order to catch up on the arrears, however, the Tenants only made this payment in June and July and then stopped paying. The Tenants did not attend the hearing to provide evidence regarding their circumstances for the Board to consider whether relief should be granted under all of the circumstances.
11. 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:**
 - \$11,211.78 if the payment is made on or before January 23, 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 Tenant has paid the full amount owing as ordered plus any additional rent that became due after January 23, 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 January 23, 2023**

5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$9,265.83. 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 \$34.77 per day for the use of the unit starting January 6, 2023 until the date the Tenant moves out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before January 23, 2023, the Tenants will start to owe interest. This will be simple interest calculated from January 24, 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 January 23, 2023, then starting January 24, 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 January 24, 2023.

2023 ONLTB 14884 (CanLII)

January 12, 2023

Date Issued

Terri van Huisstede
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 July 24, 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.

*Note: When the Board 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 to void the eviction order and continue the tenancy if the payment is made on or before January 23, 2023

Rent Owing To January 31, 2023	\$13,540.32
Application Filing Fee	\$186.00
NSF Charges	\$0.00

Less the amount the Tenant paid to the Landlord since the application was filed	- \$2,514.54
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
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 the Tenant must pay to continue the tenancy	\$11,211.78

B. Amount the Tenant must pay if the tenancy is terminated

Rent Owing To Hearing Date	\$12,656.63
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$2,514.54
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	- \$1,045.00
Less the amount of the interest on the last month's rent deposit	- \$17.26
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	\$9,265.83
Plus daily compensation owing for each day of occupation starting January 6, 2023	\$34.77 (per day)