



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

**Citation:** Evergreen Properties v Smith, 2023 ONLTB 13476

**Date:** 2023-01-11

**File Number:** LTB-L-009325-22

**In the matter of:** Lower, 65 GLENWOOD AVE  
LONDON ON N5Z2P7

**Between:** Evergreen Properties Landlord

**And**

Mitchell Woodworth and Thomasena Smith Tenant

Evergreen Properties (the 'Landlord') applied for an order to terminate the tenancy and evict Mitchell Woodworth and Thomasena Smith (the 'Tenants') because the Tenants did not pay the rent that the Tenant owe; and, because they have been persistently late in paying their rent

This application was heard by videoconference on November 3, 2022.

Only the Landlord's representative R. Rose attended the hearing. As of 10:17am, the Tenants were not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

At the hearing, the Landlord's representative advised that the Tenants had moved out, and thus, the Landlord requested the consent of the Board to withdraw the Landlord's L2 application. The Landlord sought an order for arrears only for its L1 Application.

**Determinations:**

L2 Application

1. I consent to the withdrawal of the Landlord's L2 application.

L1 Application

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. The Tenants were in possession of the rental unit on the date the application was filed.
3. The Tenants vacated the rental unit on April 1, 2022. Rent arrears are calculated up to the date the Tenants vacated the unit.
4. The lawful rent is \$915.00. It was due on the 1st day of each month.

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5. The Tenants have not made any payments since the application was filed.
6. The rent arrears owing to April 1, 2022 are \$7,350.08.
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 \$915.00 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.
9. Interest on the rent deposit, in the amount of \$57.22 is owing to the Tenants for the period from November 15, 2017 to April 1, 2022.

**It is ordered that:**

L2 Application

1. The Landlord's L2 application is withdrawn.

L1 Application

1. The tenancy between the Landlord and the Tenants is terminated as of April 1, 2022, the date the Tenants moved out of the rental unit
2. The Tenants shall pay to the Landlord \$6,563.86. 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 January 22, 2023, the Tenants will start to owe interest. This will be simple interest calculated from January 23, 2023 at 4.00% annually on the balance outstanding.

**January 11, 2023**

**Date Issued**

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Peter Nicholson

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.

\*Note: When the LTB 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 Tenants must pay as the tenancy is terminated**

Rent Owing To Move Out Date	\$7,350.08
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount of the last month's rent deposit	- \$915.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$57.22
<b>Less</b> the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
<b>Less</b> the amount of the credit that the Tenant is entitled to	- \$0.00
<b>Total amount owing to the Landlord</b>	<b>\$6,563.86</b>

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