



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

Citation: Abraham v Miles, 2022 ONLTB 13557

Date: 2022-12-08

File Number: LTB-L-021748-22

In the matter of: BASEMENT, 32 SHAWFORD CRES
SCARBOROUGH ON M1G1V8

Between: Jacob Abraham Landlord

And

Janet Vera Miles, Ken Miles, Ian Miles Tenants

Jacob Abraham (the 'Landlord') applied for an order to terminate the tenancy and evict Janet Vera Miles, Ken Miles, Ian Miles (the 'Tenants') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on November 7, 2022.

Only the Landlord's Representative H. Levenson attended the hearing.

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. The Landlord's representative presented an agreement that had been reached between the Landlord and the Tenants. However, given that the Tenants were not represented at the hearing, the LTB cannot issue an order on consent. Instead, a conditional order will be issued under the terms explained to the LTB by the Landlord's representative.

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 were still in possession of the rental unit.
3. The lawful rent is \$1,500.00. It is due on the first day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$49.32. This amount is calculated as follows: \$1,500.00 x 12, divided by 365 days.
5. The Tenants have made a payment of \$200.00 since the application was filed.
6. The rent arrears owing to November 30, 2022 are \$7,890.00.

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 \$1,500.00 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.

It is ordered that:

1. The Tenants shall pay the Landlord **\$8,076.00**, which represents the arrears of rent and costs outstanding for the period ending November 30, 2022.
2. The Landlord's application for eviction of the Tenants is denied on the condition that:
 - (a) The Tenants shall pay installments of **\$500.00** each and every month on or before the first day of the month for a 16 month period commencing December 1, 2022 to March 1, 2024, inclusive.
 - (b) The remaining balance of **\$76.00** shall be paid on or before April 1, 2024.
 - (c) The Tenant shall pay the Landlord the monthly rent for the months of December 2022 to March 2024 in full and by the **first day** of each corresponding month.
3. If the Tenant fails to make any of the payments in accordance with paragraph 2, and by the dates required then:
 - (a) The Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the "Act") for an order terminating the tenancy and evicting the Tenants and for the payment of any new arrears of rent and NSF charges not already ordered under paragraph 1 of this order. The Landlord must make the application within 30 days of a breach of a condition set out in paragraph 2 of this order.
 - (b) The balance owing under paragraph 1 of this order shall become payable on the day following the date of default. The monies owing shall bear interest at the post-judgment interest rate determined under subsection 207(7) of the Act.

December 8, 2022
Date Issued

William Greenberg
Member, Landlord and Tenant Board

Alicia Johnson
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.

