



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

**Citation:** Hameed v Mayers, 2022 ONLTB 13220

**Date:** 2022-11-30

**File Number:** LTB-L-031446-22

**In the matter of:** Main, 76 BLACKWATER CRES  
SCARBOROUGH ON M1B1L6

**Between:** Fathima Nuha Hameed Landlord

**And**

Cathy Mayers, Jerome Mayers Tenants

Fathima Nuha Hameed (the 'Landlord') applied for an order to terminate the tenancy and evict Cathy Mayers and Jerome Mayers (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on October 26, 2022.

The Landlord, the Landlord's Representative Agatha Small 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. The Tenants were in possession of the rental unit on the date the application was filed.
3. The Tenants vacated the rental unit on September 1, 2022. Rent arrears are calculated up to the date the Tenant vacated the unit
4. The lawful rent is \$2,250.00. It was due on the 1st day of each month.
5. The Tenants have not made any payments since the application was filed.
6. The rent arrears owing to September 1, 2022 are \$9,073.97.
7. The Tenant Jerome Mayers testified that he did not agree with that amount of outstanding arrears. The reason for this is because the parties came to a consent agreement on February 8, 2022 that the tenancy would end on April 30, 2022, that the Landlord would pay the Tenants \$3,950.00 and forego rent for March and April 2022. However, the consent order was not issued until July 28, 2022 and amended on September 8, 2022 (TEL-20859-21-AM). During the 6 months that the order was not issued, the Tenants did not move out the rental unit and the Tenant Jerome Mayers testified that the Landlord threatened to not pay the Tenants the money they had agreed to.

8. The rental arrears that are the subject of this application are for May 1, 2022 to September 1, 2022. These arrears are not covered by the consent agreement TEL-20859-21-AM as that agreement contemplated that the Tenants would vacate the property by April 30, 2022. As such the Tenants are responsible for rent for the months they remained in the rental unit after the date they agreed to vacate the property.
9. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
10. The Landlord collected a rent deposit at the start of the tenancy but applied it to the rent in April 2022 as they had understood that to be the last month of the tenancy. The Landlord is no longer holding a last month's rent deposit.
11. The Landlord's Representative indicated that the Landlord would also like to seek unpaid utility costs. The application filed is just an L1 application for non-payment of rent and as such utility costs are not covered by the scope of the application.

#### Tenant Issues

12. Pursuant to section 82 of the *Residential Tenancies Act* ("the Act") a tenant may raise at a hearing of an application by a landlord under section 69 of the Act any issue that could be the subject of an application made by a tenant under the Act. At the hearing the Tenant sought to raise the following maintenance issues: lawn maintenance, snow shoveling, front porch damage, exposed live wire on the outside of the house, broken windows, stove with an uneven surface such that cookware slips while on it, refrigerator leaks, water softener is leaking.
13. The Landlord's Representative brought to my attention amended order TEL-20859-21-AM. In that order the parties consented to the tenancy ending, that the Landlord would pay the Tenants \$3,950 and forego rent for March and April 2022. That order also stated that "this agreement resolves all issues between the parties". This order was released on July 28, 2022 and amended on September 8, 2022.
14. The Landlord's Representative submitted that the maintenance issues that the Tenants sought to raise at the hearing were already the subject of discussion between the parties when the consent order was agreed upon and that they were covered by the clause in the consent order that resolved all issues between the parties. Given that the Tenants had indicated that many of their maintenance concerns had been ongoing for some time and that the consent order clearly states that it resolves all issues between the parties, I limited the Tenants section 82 claim to issues that arose after the issuance of the order.
15. The Tenants submitted that there were two maintenance concerns that arose in August 2022. The first is that the grass on the front and back of the rental property was extremely long and made that part of the property unusable. The Tenants submitted that this was a new issue that had arisen after the issuance of the consent order. However, in their written materials the Tenants say that the Landlord did not mow the lawn for the 16 months that they were renting the premises. This is clearly not a new issue that arose after the issuance of the consent order and as such I will not be awarding any remedy for this issue as it was already covered in the consent order.

16. The other maintenance issue that the Tenants claimed arose after the issuance of the consent order is that many of the windows in the rental unit do not open or close properly and that there are no screens on any of the windows. At the hearing I asked the Tenant Jerome Mayers whether he had asked the landlord to remedy this problem and he replied, "I shouldn't have to". As the Tenants did not inform their Landlord about this maintenance issue the Landlord cannot be held liable for a maintenance issue they were not aware of. Additionally, under cross examination the Tenant Jerome Mayers admitted that the issue with the windows was not a new issue and had been ongoing in the tenancy.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenants is terminated as of September 1, 2022, the date the Tenants moved out of the rental unit.
2. The Tenants shall pay to the Landlord \$9,259.97. 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. 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 December 11, 2022, the Tenants will start to owe interest. This will be simple interest calculated from December 12, 2022 at 4.00% annually on the balance outstanding.

**November 30, 2022**  
**Date Issued**

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Amanda Kovats  
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.

**Schedule 1  
SUMMARY OF CALCULATIONS**

**A. Amount the Tenants must pay as the tenancy is terminated**

Rent Owing To Move Out Date	\$9,073.97
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	- \$0.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$0.00
<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>\$9,259.97</b>

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