



## Order under Section 69 Residential Tenancies Act, 2006

**Citation:** Mariani v Savie, 2022 ONLTB 12604

**Date:** 2022-11-23

**File Number:** LTB-L-006235-22

**In the matter of:** 61 ROBINS AVE  
HAMILTON ON L8H4N3

**Between:** Guy Mariani Landlord

**And**

Maxine Bointon, Norma Savie Tenants

Guy Mariani (the 'Landlord') applied for an order to terminate the tenancy and evict Maxine Bointon and Norma Savie (the 'Tenants') because the Tenants did not pay the rent that the Tenants owes ('L1 application').

The Landlord also applied for an order to terminate the tenancy and evict the Tenants because the Tenants, another occupant of the rental unit or someone the Tenants permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant; and the Tenants have been persistently late in paying the Tenants' rent ('L2 application').

This application was heard by videoconference on October 31, 2022.

Only the Landlord's Representative Brad Chudyk attended the hearing.

As of 9:32a.m., 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.

### **Determinations:**

1. The Landlord withdrew their L2 Application at the hearing.
2. 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.
3. As of the hearing date, the Tenants were still in possession of the rental unit.
4. The lawful rent is \$1,450.00. It is due on the 1st day of each month.
5. Based on the Monthly rent, the daily rent/compensation is \$47.67. This amount is calculated as follows: \$1,450.00 x 12, divided by 365 days.

6. The Tenants have paid \$5,440.00 to the Landlord since the application was filed.
7. The rent arrears owing to October 31, 2022 are \$10,310.00.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. There is no last month's rent deposit.
10. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including that the Landlord has 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. Additionally, the Tenants did not attend the hearing to provide any evidence that is relevant to my analysis under section 83.

**It is ordered that:**

1. The Landlord's L2 Application is withdrawn.
2. Based on the Landlord's L1 application the tenancy between the Landlord and the Tenants is terminated unless the Tenants voids this order.
3. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
  - \$11,946.00 if the payment is made on or before December 4, 2022. See Schedule 1 for the calculation of the amount owing.
4. 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 December 4, 2022 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.
5. **If the Tenants do not pay the amount required to void this order the Tenant must move out of the rental unit on or before December 4, 2022**
6. If the Tenants do not void the order, the Tenant shall pay to the Landlord \$10,496.00. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. See Schedule 1 for the calculation of the amount owing.
7. The Tenants shall also pay the Landlord compensation of \$47.67 per day for the use of the unit starting November 1, 2022 until the date the Tenant moves out of the unit.
8. If the Tenants do not pay the Landlord the full amount owing on or before December 4, 2022, the Tenant will start to owe interest. This will be simple interest calculated from December 5, 2022 at 4.00% annually on the balance outstanding.
9. If the unit is not vacated on or before December 4, 2022, then starting December 5, 2022, 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 December 5, 2022.

**November 23, 2022**  
**Date Issued**

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Amanda Kovats  
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 June 5, 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 Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before December 4, 2022**

Rent Owing To December 31, 2022	\$17,200.00
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	- \$5,440.00
<b>Less</b> the amount the Tenant paid into the LTB since the application was filed	- \$0.00
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$11,946.00</b>

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

Rent Owing To Hearing Date	\$15,750.00
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	- \$5,440.00
<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	- \$
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$0.00
<b>Total amount owing to the Landlord</b>	<b>\$10,496.00</b>
Plus daily compensation owing for each day of occupation starting November 1, 2022	\$47.67 (per day)