



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

Citation: Dupont/Lansdowne Holdings Inc. v Ivancsik, 2022 ONLTB 12513

Date: 2022-11-23

File Number: LTB-L-004546-22

In the matter of: 417, 1401 DUPONT ST
TORONTO ON M6H 2B1

Between: Dupont/Lansdowne Holdings Inc. Landlord

And

Gizella Ivancsik Tenants
Mario Ivancsik

Dupont/Lansdowne Holdings Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Gizella Ivancsik and Mario Ivancsik (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on August 30, 2022 at 3:06 p.m.

The Landlord's representative Jennifer Gillis, licensed paralegal and the Tenants Gizella Ivancsik and Mario Ivancsik 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. As of the hearing date, the Tenants were still in possession of the rental unit.
3. The lawful rent is \$2,200.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$72.33. This amount is calculated as follows: \$2,200.00 x 12, divided by 365 days.
5. The Tenants have made \$7,500.00 in payments since the application was filed.
6. The rent arrears owing to August 31, 2022 are \$10,057.26.
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 \$2,200.00 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.

9. Interest on the rent deposit owing is \$40.33.

Relief from Eviction

10. The Tenants testified about an alleged broken air conditioner/heater, dog feces and garbage in the hallway and harassment by the Landlord.
- Regarding the air conditioner, the Tenants testified it did not work since June 2021 and while they did not provide any specific dates or evidence related to the request to the Landlord to address the issue, they alleged they asked the Landlord to fix it.
 - Regarding the heater, the Tenants testified it did not work in November 2021 and while they did not provide any specific dates or evidence related to the request to the Landlord to address this issue, they alleged they asked the Landlord to fix it for approximately four months.
 - Regarding the feces and garbage, the Tenants testified it occurred in June; and while they did not provide any specific dates or evidence related to the request for the Landlord or property manager to address the matter they alleged they asked the property manager.
 - Regarding the harassment, the Tenant's alleged the Landlord's agent uttered a slur to the Tenants while they were smoking outside the building.
11. The Landlord testified they did not know of the alleged maintenance issues to the air conditioner, heater or hallway matters and denied the allegations related to the harassment.
12. Subsection 83(3) of the *Residential Tenancies Act, 2006* ("Act") provides that the Board must refuse to order eviction if the landlord is in serious breach of the landlord's responsibilities under this Act or of any material covenant in the tenancy agreement.
13. I do not find that the Tenants have established that any of these issues constitute a serious breach of the Landlord's responsibilities under the Act. The Tenants did not submit any specific evidence, photographs or otherwise related to time, date or severity of these matters or when they made the Landlord aware of these matters. The Tenants were unable to provide any details related to the alleged harassment claim when asked under cross-examination. In addition.
14. I found that these issues concern matters that frustrated the Tenants during the tenancy, but I was not persuaded that these matters were a serious breach of the Landlord's responsibilities as the quality of the testimony from the Tenants was lacking and was unsubstantiated.
15. These issues could not be considered pursuant to section 82 of the *Act* because the Tenants failed to provide advance notice to the Landlord as required by subsection 82(2) of the Act and LTB Rule of Procedure 19.
16. 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:**
 - \$16,843.26 if the payment is made on or before November 30, 2022. See Schedule 1 for the calculation of the amount owing.

OR

 - \$19,043.26 if the payment is made on or before December 4, 2022. 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 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 Tenant 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 December 4, 2022.**
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$7,930.60. 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 \$72.33 per day for the use of the unit starting August 31, 2022 until the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before December 4, 2022, the Tenants will start to owe interest. This will be simple interest calculated from December 5, 2022 at 4.00% annually on the balance outstanding.
8. 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.
9. 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

Greg Witt
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.

2022 ONLTB 12513 (CanLII)

Schedule 1
SUMMARY OF CALCULATIONS

A. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before November 30, 2022

Rent Owing To November 30, 2022	\$16,657.26
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenants for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants are entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$16,843.26

B. Amount the Tenants 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 30, 2022	\$18,857.26
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenants for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenants are entitled to	- \$0.00
Total the Tenants must pay to continue the tenancy	\$19,043.26

C. Amount the Tenants must pay if the tenancy is terminated

Rent Owing To Hearing Date	\$9,984.93
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenants paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenants paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$2,200.00
Less the amount of the interest on the last month's rent deposit	- \$40.33
Less the amount the Landlord owes the Tenants for an {abatement/rebate}	- \$0.00

Less the amount of the credit that the Tenants are entitled to	- \$0.00
Total amount owing to the Landlord	\$7,930.60
Plus daily compensation owing for each day of occupation starting August 31, 2022	\$72.33 (per day)