



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

Citation: Jaretske v O'handley, 2022 ONLTB 11223

Date: 2022-11-07

File Number: LTB-L-007681-22

In the matter of: , 39376 REID RD RR 3
WINGHAM ON N0G2W0

Between: Harry Robert Jaretske Landlord

And

Amanda O'handley, Justin Flynn Tenants

Harry Robert Jaretske (the 'Landlord') applied for an order to terminate the tenancy and evict Amanda O'handley and Justin Flynn (the 'Tenants') because:

- the Tenants have been persistently late in paying the Tenants' rent.

The Landlord also claimed compensation for each day the Tenants remained in the unit after the termination date.

This application was heard by videoconference on November 1, 2022.

The Landlord and the Landlord's Legal Representative, Matthew Edgar Armstrong attended the hearing.

As of 10:09 a.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 Tenants have persistently failed to pay the rent on the date it was due. The rent is due on the 1st day of each month. The rent has been paid late 15 times in the past 37 months, with the last 12 months being late every month for the period February 2021 through January 2022.
2. Due to the persistently late payment of rent, the Landlord served the Tenant a N8 Notice of Eviction on January 24, 2022; the notice had a termination date of March 31, 2022.
3. Based on the Monthly rent, the daily compensation is \$23.84. This amount is calculated as follows: \$725.00 x 12, divided by 365 days.
4. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

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5. The Landlord collected a rent deposit of \$725.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit for the period from May 1, 2017 to October 31, 2022 in the amount of \$65.30.
6. In accordance with subsection 106(10) of the *Residential Tenancies Act, 2006*, (the 'Act') the last month's rent deposit shall be applied to the rent for the last month of the tenancy.
7. The Landlord testified that the Tenants have not paid any rent since the application was filed, and some payments that were made came back as NSF.
8. The Landlord's Legal Representative submitted that the Landlord is seeking termination for November 30, 2022 due the persistently late payments and that there is now extensive arrears owing.
9. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to postpone the eviction until November 30, 2022 pursuant to subsection 83(1)(b) of the Act.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated. The Tenants must move out of the rental unit on or before November 30, 2022.
2. If the unit is not vacated on or before November 30, 2022, then starting December 1, 2022, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. 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 1, 2022.
4. The Tenants shall also pay the Landlord compensation of \$23.84 per day for the use of the unit starting November 2, 2022 until the date the Tenant moves out of the unit.
5. The Tenants shall pay to the Landlord \$186.00 for the cost of filing the application.
6. If the Tenants do not pay the Landlord the full amount owing on or before November 30, 2022, the Tenants will start to owe interest. This will be simple interest calculated from December 1, 2022, at 3.00% annually on the balance outstanding.

November 7, 2022

Date Issued

Diane Wade

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 of the Tenant expires on June 1, 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.

