



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

**Citation:** Resenzwaig v McNally, 2022 ONLTB 9261

**Date:** 2022-10-25

**File Number:** LTB-L-016433-22

**In the matter of:** , 203 RAY SNOW BLVD  
NEWMARKET ON L3X3J4

<b>Between:</b>	Leonid Resenzwaig	Landlord
	Marianna Rosenzwaig	Landlord

**And**

Andrew Mercer	Tenant
Donald Malcolm McNally	Tenant
Robert Victor Higgs	Tenant

Leonid Resenzwaig and Marianna Rosenzwaig (the 'Landlord') applied for an order to terminate the tenancy and evict Andrew Mercer, Donald Malcolm McNally and Robert Victor Higgs (the 'Tenants') because the Tenant did not pay the rent that the Tenants owe.

This application was heard by videoconference on September 29, 2022.

Only the Landlord, and the Landlord's representative, Elina Vasilieva, attended the hearing.

**Determinations:**

1. The Landlords 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 \$2,216.00. It is due on the first day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$72.85. This amount is calculated as follows: \$2,216.00 x 12, divided by 365 days.
5. The Tenants have not made any payments since the application was filed.
6. The rent arrears owing to September 30, 2022 are \$16,028.00.
7. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

8. The Landlords collected a rent deposit of \$2,190.00 from the Tenants and this deposit is still being held by the Landlords. 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, in the amount of \$170.80 is owing to the Tenant for the period from January 30, 2017 to September 29, 2022.
10. 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, including submissions from the Landlords' representative that the Tenants does not have young children or any persons with special needs that the Board needs to consider living with them, and whether the Landlords 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.
11. This order contains all reasons for the determinations and order made. No further reasons will be issued.

**It is ordered that:**

1. The tenancy between the Landlords 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 Landlords or to the LTB in trust:
  - \$18,430.00 if the payment is made on or before October 31, 2022. See Schedule 1 for the calculation of the amount owing.OR
  - \$20,646.00 if the payment is made on or before November 5, 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 November 5, 2022 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants 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 November 5, 2022
5. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$13,749.85. 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 Landlords owe 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 Landlords compensation of \$72.85 per day for the use of the unit starting September 30, 2022 until the date the Tenants moves out of the unit.

7. If the Tenants do not pay the Landlords the full amount owing on or before November 5, 2022, the Tenants will start to owe interest. This will be simple interest calculated from November 6, 2022 at 2.00% annually on the balance outstanding.
8. If the unit is not vacated on or before November 5, 2022, then starting November 6, 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 November 6, 2022.

**October 25, 2022**  
**Date Issued**

\_\_\_\_\_  
Greg Brocanier  
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 May 6, 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.

\*Note: When the Board directs payment-out, the Canadian Imperial Bank of Commerce will issue a cheque to the appropriate party named in this notice. The cheque will be in the amount directed plus any interest accrued up to the date of the notice

**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 October 31, 2022**

Rent Owing To October 31, 2022	\$18,244.00
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	- \$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 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	- \$
<b>Total the Tenant must pay to continue the tenancy</b>	<b>\$18,430.00</b>

**B. Amount the Tenant must pay to void the eviction order and continue the tenancy if the payment is made on or before November 5, 2022**

Rent Owing To November 30, 2022	\$20,460.00
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	- \$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 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 the Tenant must pay to continue the tenancy</b>	<b>\$20,646.00</b>

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

Rent Owing To Hearing Date	\$15,924.65
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	- \$2,190.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$170.80
<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	- \$
<b>Total amount owing to the Landlord</b>	<b>\$13,749.85</b>
Plus daily compensation owing for each day of occupation starting September 30, 2022	\$72.85 (per day)