



**JAN 18, 2024**

Landlord and Tenant Board

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

**Citation:** Wawzonek v Smith, 2024 ONLTB 3942

**Date:** 2024-01-18

**File Number:** LTB-L-068988-22

**In the matter of:** UPPER, 90 WEST AVE N  
HAMILTON ON L8L5C2

**Between:** Matthew Wawzonek Landlord

**And**

Daniella Smith and Cody Smith Tenants

Matthew Wawzonek (the 'Landlord') applied for an order to terminate the tenancy and evict Daniella Smith and Cody Smith (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

AND

Matthew Wawzonek (the 'Landlord') applied for an order to terminate the tenancy and evict Daniella Smith and Cody Smith (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 January 3, 2024.

The Landlord' Legal Representative Jordan Nieuwhof and the Tenants attended the hearing.

**Determinations:**

1. The Landlord served the Tenant with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenant 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 Tenant was in possession of the rental unit on the date the application was filed.
3. As per the agreed statements of fact, the Tenants vacated the rental unit on December 1, 2023. Rent arrears are calculated up to the date the Tenant vacated the unit.
4. The lawful rent is \$1,493.71. It was due on the 1st day of each month.
5. The Tenant has paid \$2,426.00 to the Landlord since the application was filed.

6. The rent arrears owing to December 1, 2023 are \$18,970.92.
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 \$1,450.00 from the Tenants and this deposit is still being held by the Landlord. The rent deposit is applied to the arrears of rent because the tenancy terminated.
9. Interest on the rent deposit, in the amount of \$161.59 is owing to the Tenants for the period from November 11, 2016 to December 1, 2023.

L2 Application/ N8 Notice

10. At the time of the hearing, the Landlord's Legal Representative withdrew the L2 application.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenants is terminated as of December 1, 2023, the date the Tenants moved out of the rental unit
2. The Tenants shall pay to the Landlord \$17,545.33. 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. The rent deposit and interest the Landlord owes on the rent deposit is deducted from the amount owing by the Tenants. 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 January 29, 2024, the Tenants will start to owe interest. This will be simple interest calculated from January 30, 2024 at 7.00% annually on the balance outstanding.

**January 18, 2024**  
**Date Issued**

  
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Alicia Johnson  
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	\$21,396.92
Application Filing Fee	\$186.00
NSF Charges	\$0.00
<b>Less</b> the amount the Tenant spaid to the Landlord since the application was filed	- \$2,426.00
<b>Less</b> the amount the Tenants paid into the LTB since the application was filed	- \$0.00
<b>Less</b> the amount of the last month's rent deposit	- \$1,450.00
<b>Less</b> the amount of the interest on the last month's rent deposit	- \$161.59
<b>Less</b> the amount the Landlord owes the Tenants 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>\$17,545.33</b>