



Order under Section 69 Residential Tenancies Act, 2006

File Number: LTB-L-069044-24

In the matter of: 3957 THOMAS ALTON BLVD
BURLINGTON ON L7M2A4

Between: Nilo Miclat

And

Richard Whyte
Patricia Ann Trainor

I hereby certify this is a
true copy of an Order dated

FEB 11, 2025

Landlord and Tenant Board

Landlord

Tenants

Nilo Miclat (the 'Landlord') applied for an order to terminate the tenancy and evict Richard Whyte and Patricia Ann Trainor (the 'Tenants') because

- the Tenants did not pay the rent that the Tenants owe (L1 application).
- the Tenants, another occupant of the rental unit or a person the Tenants permitted in the residential complex has seriously impaired the safety of any person and the act or omission occurred in the residential complex; the Tenants, another occupant of the rental unit or someone the Tenants permitted in the residential complex has wilfully caused undue damage to the premises. (L2 application).

These applications were heard by videoconference on February 4, 2025. Only the Landlord and the Landlord's legal representative Andrea Geddes attended the hearing.

As of 1:30pm, 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:

L1 application:

1. The Landlord served the Tenants 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. As of the hearing date, the Tenants were still in possession of the rental unit.
3. The lawful rent is \$3,295.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$108.33. This amount is calculated as follows: \$3,295.00 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 February 28, 2025, are \$52,720.00.
7. The amount of arrears claimed exceeds the Board's monetary jurisdiction of \$35,000.00 pursuant to section 207 of the Act. The Landlord's legal representative understood that in accordance with section 207(3) of the Act, that by pursuing this application before the Board, the Landlord cannot claim any arrears in excess of \$35,000.00 in a new application before the Board or before a Court of competent jurisdiction.
8. While the Board cannot order a person to pay more than \$35,000.00, this does not apply to the "stay and pay" option set out in paragraph 3 of the order below. In *Galaxy Real Estate Core Ontario LP v. Kirpichova et al.*, 2023 ONSC 4356, the Divisional Court confirmed that the Board's monetary jurisdiction does not apply to the amount the Tenants must pay if they choose to void the order and continue the tenancy in accordance with section 74(4) of the Act. Therefore, the Tenants must pay the full arrears owing, plus the Landlords' costs, if they want to void the order and continue this tenancy.
9. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
10. The Landlord collected a rent deposit of \$3,295.00 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.
11. Interest on the rent deposit, in the amount of \$142.18 is owing to the Tenants for the period from May 16, 2023 to February 4, 2025.
12. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including 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.

L2 application:

13. At the hearing, the Landlord requested that the L2 application be withdrawn. In accordance with subsection 200(4) of the Act, I consent to the withdrawal of the application.

It is ordered that:

1. The Landlord's L2 application is withdrawn.
2. The tenancy between the Landlord and the Tenants is terminated unless the Tenants void this order.
3. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$52,906.00 if the payment is made on or before February 22, 2025. 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 February 22, 2025 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 Tenants must move out of the rental unit on or before February 22, 2025.**
6. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$35,186.00. This amount includes rent arrears owing up to the date of the hearing (less the amount in excess of the Board's monetary jurisdiction) 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.
7. If the Tenants do not pay the Landlord the full amount owing on or before February 22, 2025, the Tenants will start to owe interest. This will be simple interest calculated from February 23, 2025 at 5.00% annually on the balance outstanding.
8. If the unit is not vacated on or before February 22, 2025, then starting February 23, 2025, 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 February 23, 2025.

February 11, 2025
Date Issued



Fabio Quattrociochi
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 August 23, 2025 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 February 22, 2025

Rent Owing To February 28, 2025	\$52,720.00
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount the Landlord owes the Tenant for an{abatement/rebate}	- \$0.00
Less the amount of the credit that the Tenant is entitled to	- \$0.00
Total the Tenant must pay to continue the tenancy	\$52,906.00

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

Rent Owing To Hearing Date	\$49,858.32
Application Filing Fee	\$186.00
NSF Charges	\$0.00
Less the amount the Tenant paid to the Landlord since the application was filed	- \$0.00
Less the amount the Tenant paid into the LTB since the application was filed	- \$0.00
Less the amount of the last month's rent deposit	- \$3,295.00
Less the amount of the interest on the last month's rent deposit	- \$142.18
Less the amount the Landlord owes the Tenant for an {abatement/rebate}	- \$0.00
Less the amount in excess of the Board's monetary jurisdiction	- \$11,421.14
Total amount owing to the Landlord	\$35,186.00