



Jan 16, 2025

Landlord and Tenant Board

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

File Number: LTB-L-040237-24

In the matter of: 1408 Monaghan Rd
Peterborough ON K9J5M7

Between: Harold Glenn Dalton Landlord

And

Ashley Kirkpatrick Tenants
Kevin Currie

Harold Glenn Dalton (the 'Landlord') applied for an order to terminate the tenancy and evict Ashley Kirkpatrick and Kevin Currie (the 'Tenants') because the Tenant did not pay the rent that the Tenant owes.

This application was heard by videoconference on January 9, 2025.

The Landlord and the Tenants attended the hearing. The Tenants spoke with Tenant Duty Counsel on the hearing date.

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 \$1,200.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$39.45. This amount is calculated as follows: \$1,200.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.
6. The rent arrears owing to January 31, 2025 are \$10,800.00.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. The application is amended to include that the Landlord collected a rent deposit of \$1,150.00 from the Tenant 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. 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 not be unfair to postpone the eviction until June 30, 2025 pursuant to subsection 83(1)(b) of the Act on the condition that the Tenants make ongoing rent and arrears payments in the interim as ordered below.
10. The Tenants have lived in the rental unit for 15 years and they have two children (ages 7 and 2.5). There was no dispute that prior to the Landlord serving the Tenants with a first N12 Notice in April, the Tenants always paid the rent on time. During this time the Tenants had additional unexpected expenses including a transmission repair and other medical expenses. The Tenants have limited means of income including one Tenant on disability support payments and the other Tenant started a new job in the spring of 2025 with less hours than their previous employment.
11. Based on the evidence provided regarding their current income and expenses and the fact that they have a child in school, I find it appropriate to give the Tenants extra time to either void the order, or to find alternative housing at the end of the current school year. Additionally, I find this appropriate on the basis that the Landlord did not attempt to work out any payment arrangements with the Tenants during the period of arrears, despite the long-term tenancy.
12. The Landlord was opposed to a payment plan on the basis that they have another application relating to an N12 Notice and because the Tenants are refusing to vacate the rental unit and allow their daughter to take possession of it despite their knowledge of the Landlord's intentions since at least April of 2024. The Landlord was also opposed on the basis that the Tenants immediately stopped paying rent after the Landlord served them with notice of their intention to have their daughter move into the unit and they feel that the Tenants have deliberately withheld the rent as a result and should not be entitled to any discretionary relief.
13. While I make no findings with respect to the Landlord's N12 Notice or the good faith of their intentions, I find that the prejudice of the Tenants in the circumstances, outweighs the prejudice of the Landlord and the prejudice to the Landlord would be minimized if the Tenants do not make the interim payments as promised at the hearing.
14. My decision regarding the extended relief was provided at the hearing and this order reflects that decision.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated on June 30, 2025 unless the Tenants void this order.
2. The tenancy between the Landlord and the Tenants may terminate earlier than June 30, 2025, if the Tenants do not make the following payments as a condition of extending this voiding period as follows:

- I. The Tenants shall pay to the Landlord \$600.00 towards the arrears on or by the first day of each month starting February 1, 2025, and on the first day of each month thereafter up to and including to June 1, 2025; and
 - II. The Tenants shall also pay to the Landlord the lawful monthly rent of \$1,200.00 on or by the first day of each corresponding month starting February 1, 2025, and up to and including to June 1, 2025.
3. If the Tenants fail to make the payments as ordered under paragraph 2 above, then the Landlord may file for earlier termination of the tenancy pursuant to section 78 of the Act and without notice to the Tenants within 30 days of the breach.
4. **The Tenants may void this order and continue the tenancy by paying to the Landlord or to the LTB in trust:**
 - \$10,986.00 if the payment is made on or before January 31, 2025. See Schedule 1 for the calculation of the amount owing.

OR

 - \$12,186.00 if the payment is made on or before February 28, 2025. See Schedule 1 for the calculation of the amount owing.

OR

 - \$13,386.00 if the payment is made on or before March 31, 2025. See Schedule 1 for the calculation of the amount owing.

OR

 - \$14,586.00 if the payment is made on or before April 30, 2025. See Schedule 1 for the calculation of the amount owing.

OR

 - \$15,786.00 if the payment is made on or before May 31, 2025. See Schedule 1 for the calculation of the amount owing.

OR

 - \$16,986.00 if the payment is made on or before June 30, 2025. See Schedule 1 for the calculation of the amount owing.
5. 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 June 30, 2025 but before the Court Enforcement Office (Sheriff) enforces the eviction. The Tenants may only make this motion once during the tenancy.
6. **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 June 30, 2025.**

7. If the Tenants do not void the order, the Tenants shall pay to the Landlord \$8,991.05. 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.
8. The Tenants shall also pay the Landlord compensation of \$39.45 per day for the use of the unit starting January 10, 2025 until the date the Tenants move out of the unit.
9. If the Tenants does not pay the Landlord the full amount owing on or before June 30, 2025, the Tenants will start to owe interest. This will be simple interest calculated from July 1, 2025 at 5.00% annually on the balance outstanding.
10. If the unit is not vacated on or before June 30, 2025, then starting July 1, 2025, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
11. 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 July 1, 2025.

January 16, 2025
Date Issued



Terri van Huisstede
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 January 1, 2026 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 Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before January 31, 2025

Rent Owing To January 31, 2025	\$10,800.00
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
Total the Tenants must pay to continue the tenancy	\$10,986.00

B. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before February 28, 2025

Rent Owing To February 28, 2025	\$12,000.00
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
Total the Tenants must pay to continue the tenancy	\$12,186.00

C. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before March 31, 2025

Rent Owing To March 31, 2025	\$13,200.00
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
Total the Tenants must pay to continue the tenancy	\$13,386.00

D. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before April 30, 2025

Rent Owing To April 30, 2025	\$14,400.00
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
Total the Tenants must pay to continue the tenancy	\$14,586.00

E. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before May 31, 2025

Rent Owing To May 31, 2025	\$15,600.00
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
Total the Tenants must pay to continue the tenancy	\$15,786.00

F. Amount the Tenants must pay to void the eviction order and continue the tenancy if the payment is made on or before June 30, 2025

Rent Owing To June 30, 2025	\$16,800.00
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
Total the Tenants must pay to continue the tenancy	\$16,986.00

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

Rent Owing To Hearing Date	\$9,955.05
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	- \$1,150.00
Less the amount of the interest on the last month's rent deposit	- \$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 amount owing to the Landlord	\$8,991.05
Plus daily compensation owing for each day of occupation starting January 10, 2025	\$39.45 (per day)