



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

File Number: LTB-L-005994-26

In the matter of: 561 MOY AVE
WINDSOR ON N9A2N3

Between: Bryannia L Donne Landlord

And

Jessica Dykema Tenants
Steven McCartney

Bryannia L Donne (the 'Landlord') applied for an order to terminate the tenancy and evict Jessica Dykema and Steven McCartney (the 'Tenants') because:

- the Tenants did not pay the rent that the Tenants owe (L1 Application); and
- the Tenants have been persistently late in paying the Tenants' rent; (L2 Application).

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 March 31, 2026.

Only the Landlord attended the hearing.

As of 1:33 p.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:

L1 Application – Non-Payment of Rent

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 \$2,200.00. It is due on the 1st day of each month.

4. Based on the Monthly rent, the daily rent/compensation is \$72.33. This amount is calculated as follows: \$2,200.00 x 12, divided by 365 days.
5. The Tenants have paid \$2,200.00 to the Landlord since the application was filed.
6. The rent arrears owing to March 31, 2026, are \$4,400.00.
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 \$2,200.00 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.
9. Interest on the rent deposit, in the amount of \$128.73 is owing to the Tenants for the period from November 4, 2023 to March 31, 2026.

L2 Application – Persistent Late Payment of Rent

10. It is undisputed that the lawful rent is due on the 1st day of each month.
11. The evidence before me reveals that the Tenants have paid late, or not at all, since January 2025 except April, August, November and December 2025 and even after the application was filed. The Tenants have paid their rent late 11 times out of 15 times.
12. There is a difference between paying the rent that is due, but not on the date on which it is due (i.e., late payment of rent) and not paying the rent at all (i.e., failure to pay rent). While both constitute breaches of the lease by the tenant, they are conceptually different and may lead to different legal consequences. In *Tataw v. Minto Apartment Limited Partnership*, 2023 ONSC 4238 (Div. Ct.), para 14, Justice Corbett stated:

Persistent late payment of rent, and non-payment of rent, are related but distinct bases for applications before the Board. Landlords are entitled to be paid rent on time, as it falls due. Where an application is brought in respect to current arrears, if the Board finds for the landlord, the usual order is for a voidable order terminating the tenancy: if the tenant pays up the arrears and further rent accruals by a specified date, then the termination order is voided. Where the Board finds persistent late payment of rent, the Board may terminate the tenancy, or it may impose some other order – for example, for timely future payment of rent, failing which the landlord may seek a termination order.

13. Therefore, section 58(1)(1) of the *Residential Tenancies Act, 2006* (the 'Act') permits a landlord to give a notice of termination where "[t]he tenant has persistently failed to pay rent on the date it becomes due and payable."
14. In this case, in addition to the arrears owing above, I find that the Tenants have persistently failed to pay the rent on the date it became due and payable.

Relief from Eviction

15. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
16. The Tenants were not present at the hearing to share evidence with respect to their circumstances. The Tenants have not made any substantial rent payments since the application was filed. The Landlord has attempted to reach out but there has been no response from the Tenants. There is no reason for me to grant relief from eviction.

It is ordered that:

1. Pursuant to the L2 Application, the tenancy between the Landlord and the Tenants is terminated. The Tenants must move out of the rental unit on or before April 25, 2026.
2. The Tenants shall pay the Landlord any rent arrears owing up to the date of the hearing and the cost of filing the application. The amount of the rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenants.
3. As of the date of the hearing, the Tenants owe the Landlord \$2,257.27. See Schedule 1 for the calculation of the amount owing.
4. The Tenants shall also pay the Landlord compensation of \$72.33 per day for the use of the unit starting April 1, 2026, to the date the Tenants move out of the unit.
5. If the Tenants do not pay the Landlord the full amount owing on or before April 25, 2026, the Tenants will start to owe interest. This will be simple interest calculated from April 26, 2026, at 4.00% annually on the balance outstanding.
6. If the unit is not vacated on or before April 25, 2026, then starting April 26, 2026, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
7. 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 April 26, 2026.

April 14, 2026
Date Issued

Sheena Brar
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 Tenants expires on October 26, 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 as the tenancy is terminated

Rent Owing To March 31, 2026	\$6,600.00
Application Filing Fee	\$186.00
Less the amount the Tenants paid to the Landlord since the application was filed	-\$2,200.00
Less the amount of the last month's rent deposit	-\$2,200.00
Less the amount of the interest on the last month's rent deposit	-\$128.73
Total amount owing to the Landlord	\$2,257.27
Plus daily compensation owing for each day of occupation starting April 1, 2026	\$72.33 (per day)