



Order under Section 69 Residential Tenancies Act, 2006

Citation: Siddique v NEIVA, 2026 ONLTB 36131

Date: 2026-05-06

File Number: LTB-L-014325-26

In the matter of: 20 WINDSOR RD
TORONTO ON M9R3G1

Between: Muhammad Siddique Landlord

And

Vera Costa Neiva Tenants
Carlos Goncalves

Muhammad Siddique (the 'Landlord') applied for an order to terminate the tenancy and evict Vera Costa Neiva and Carlos Goncalves (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on April 27, 2026.

The Landlord's Agent, Zeeshan Siddique, and the Tenants attended the hearing. The Tenants consulted with Tenant Duty Counsel prior to the hearing.

Determinations:

1. For the reasons explained below, the Landlord's application is dismissed.
2. The Landlord served the Tenants with a 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.
3. As of the hearing date, the Tenants were still in possession of the rental unit.
4. Upon review of the N4 Notice, the Landlord was asked to explain the table on page 2 of the N4 Notice as it shows rent owing for the period of December 1, 2018 to December 31, 2018. The Landlord's agent submitted the Tenants used their last month's rent deposit at some point during the tenancy and the Landlord is seeking the deposit be paid back to the Landlord.
5. The Landlord's agent explained that order LTB-L-062090-25 was issued on October 17, 2025. This order relates to a previous L1 application in which it was determined the rent

arrears were for the period of July 1, 2025 to September 30, 2025 and there was no last month's rent deposit.

6. On December 19, 2025, review order LTB-L-062090-25-RV was issued. In this order, the Member was satisfied that the Landlord is holding a last month's rent deposit and varied order LTB-L-062090-25, issued on October 17, 2025, to order, in part, that:

Paragraph 16 of the Determinations is replaced with "In December, 2017, the Landlord collected a rent deposit of \$3,000.00. The deposit is still being held by the Landlord."

7. The Landlord's agent argued the Tenants used their last month's rent deposit in December 2018 and as order LTB-L-062090-25-RV states the Landlord is holding a last month's rent deposit, the Landlord served the N4 Notice for the unpaid rent for the period of December 1, 2018 to December 31, 2018.
8. At the hearing, it was explained to the Landlord's agent that I was not prepared to proceed with the application, as it was evident that the Landlord was attempting to obtain a last month's rent deposit after the tenancy had already commenced, which is not permitted under the Act. I concur with the Member's determination in Order LTB-L-062909-25-RV at paragraph 33:

33. In this proceeding, the Landlord claimed arrears totalling \$15,270.00 owing from July 2025 through November 2025. He ought to have claimed \$18,270.00 owing from December 2018 through November 2025. He did not do so because he erroneously believed that the deposit had been applied to December 2018.

9. In my view, the Landlord's error cannot be attributed to the Tenants nearly eight years after the fact. The Landlord bears the obligation to maintain accurate and complete records of rent payments, including the collection and proper application of the last month's rent deposit. The Landlord is likewise responsible for understanding the circumstances under which a last month's rent deposit may be applied. Although the Member made no finding as to whether the Tenants paid rent in December 2018 and suggested that a new application could be brought, I am exercising my discretion pursuant to subsection 202(1) of the *Residential Tenancies Act, 2006* (the "Act"), which provides:

202 (1) In making findings on an application, the Board shall ascertain the real substance of all transactions and activities relating to a residential complex or a rental unit and the good faith of the participants and in doing so,

(a) may disregard the outward form of a transaction or the separate corporate existence of participants; and

(b) may have regard to the pattern of activities relating to the residential complex or the rental unit.

10. As a result, the Landlord's application is dismissed.

It is ordered that:

1. The Landlord's application is dismissed.

May 6, 2026
Date Issued

Susan Priest
Member, Landlord and Tenant Board

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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.