



## Order under Section 78(6) Residential Tenancies Act, 2006

**Citation:** Kelly Lake (no. 8) Inc. v Biggs, 2024 ONLTB 15842

**Date:** 2024-03-08

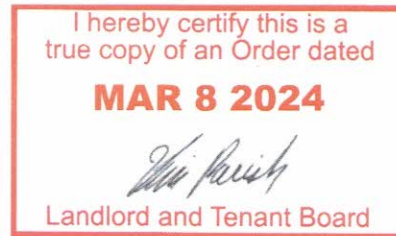
**File Number:** LTB-L-015423-24

**In the matter of:** 5, 1578 Kelly Lake Road  
Sudbury ON P3E4M1

**Between:** Kelly Lake (no. 8) Inc.

**And**

Normand Biggs  
Ashley Robertson



Landlord

Tenants

Kelly Lake (no. 8) Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Normand Biggs and Ashley Robertson (the 'Tenants') and for an order to have the Tenants pay the rent they owe because the Tenants did not meet a condition specified in the order issued by the LTB on February 23, 2024, with respect to application LTB-L-078459-23.

This application was decided without a hearing being held.

### Determinations:

1. The order provides that the Landlord can apply to the LTB under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') without notice to the Tenants to terminate the tenancy and evict the Tenants if the Tenants do not meet certain condition(s) in the order. This application was filed within 30 days of the breach.
2. I find that the Tenants have not met the following condition specified in the order:

**The Tenants failed to pay \$2,384.00 towards the arrears, due on or before February 8, 2024.**

3. The previous application includes a request for an order for the payment of arrears of rent and the order requires the Tenants to make payments by specific due dates. Accordingly, in addition to eviction, the Landlord is entitled to request an order for the payment of arrears owing.
4. The Tenants were required to pay \$2,650.00 for rent arrears and the application filing fee in the previous order. The amount that is still owing from that order is \$260.00 and that amount is included in this order. This order replaces order LTB-L-078459-23.

5. The Landlord collected a rent deposit of \$1,550.00 from the Tenants and this deposit is still being held by the Landlord.
6. Interest on the rent deposit is owing to the Tenants for the period from January 1, 2024, to March 8, 2024.
7. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenants are required to pay.
8. The Landlord is entitled to daily compensation from the day after this order is issued to the date the Tenants move out of the unit at a daily rate of \$49.32. This amount is calculated as follows:  $\$1,500.00 \times 12$ , divided by 365 days.

**It is ordered that:**

1. Order LTB-L-078459-23 is cancelled.
2. The tenancy between the Landlord and the Tenants is terminated. The Tenants must move out of the rental unit on or before March 19, 2024.
3. If the unit is not vacated on or before March 19, 2024, then starting March 20, 2024, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
4. 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 March 20, 2024.
5. As of the date of this order, the amount of the rent deposit and interest the Landlord owes on the rent deposit exceeds the arrears of rent, compensation and the cost of filing the previous application the Landlord is entitled to by \$902.66.
6. However, the Landlord is authorized to deduct the following from the amount the Landlord owes the Tenants: \$49.32 per day for compensation for the use of the unit starting March 9, 2024, to the date the Tenants move out of the unit.
7. The Landlord or the Tenants shall pay to the other any sum of money that is owed as a result of this order.

**March 8, 2024**  
**Date Issued**

  
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Kimberly Parish  
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor,  
Toronto ON M7A 2G6

The Tenants have until March 18, 2024, to file a motion with the LTB to set aside the order under s. 78(9) of the Act. If the Tenants file the motion by March 18, 2024, the order will be stayed and the LTB will schedule a hearing.

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 September 20, 2024, 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.

\* Refer to the attached Summary of Calculations.

Summary of Calculation**Amount the Tenants must pay the Landlord:**

<b>Reason for amount owing</b>	<b>Period</b>	<b>Amount</b>
Amount owing from previous order	Up to January 31, 2024	\$260.00
New Arrears	to March 8, 2024	\$394.56
Less the rent deposit:		-\$1,550.00
Less the interest owing on the rent deposit	January 1, 2024, to March 8, 2024	-\$7.22
Plus daily compensation owing for each day of occupation starting March 9, 2024		\$49.32 (per day)
<b>Total the Tenants must pay the Landlord:</b>		<b>- \$902.66 +\$49.32 per day starting March 9, 2024</b>