



Jan. 31, 2024

**Order under Section 77(8)
Residential Tenancies Act, 2006**

Citation: Khan v Bensch, 2024 ONLTB 7311

Date: 2024-01-31

File Number: LTB-L-087505-23-SA

In the matter of: 323, 781 CLARE AVE
WELLAND ON L3C0K1

Between: Waseem Ullah Khan, Adnan Ali, Asma Javed
and Naila Gul

Landlords

And

Maygan Ashley susan charlotte Bensch and
Maksymiljan Daniel Elwood

Tenants

Waseem Ullah Khan, Adnan Ali, Asma Javed and Naila Gul (the 'Landlords') applied for an order to terminate the tenancy and evict Maygan Ashley susan charlotte Bensch and Maksymiljan Daniel Elwood (the 'Tenants') and for an order to have the Tenants pay the rent they owe because the Tenants failed to meet a condition specified in the order issued by the Board on October 25, 2023 with respect to application LTB-L-073138-23.

The Landlords' application was resolved by order LTB-L-087505-23, issued on November 22, 2023. This order was issued without a hearing being held.

The Tenants filed a motion to set aside order LTB-L-087505-23.

The motion was heard by videoconference on January 18, 2024. The Landlord Waseem Ullah Khan and Adnan Ali, and the Tenants, attended the hearing.

Determinations:

1. The Tenants moved into the rental unit on April 1, 2023. The Tenants have not paid nearly half the rent and now owe the Landlords \$10,036.00 to the end of January 2024. The Tenants have made no further payments to the Landlords since the Landlords filed the L4 application on November 4, 2023. The Tenants testified that they were seeking additional time to vacate the unit.
2. After considering all of the circumstances, including the amount of unpaid rent and the fact the Tenants have had an additional two months in the unit since the motion was filed, I find that it would be unfair to set aside order LTB-L-087505-23.

It is ordered that:

1. The motion to set aside Order LTB-L-087505-23, issued on November 22, 2023, is denied.

2. The stay of Order LTB-L-087505-23, is lifted immediately.
3. Order LTB-L-087505-23 is unchanged.

January 31, 2024



Date Issued

Greg Joy
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.



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

Citation: Khan v Bensch, 2023 ONLTB 75311

Date: 2023-11-22

File Number: LTB-L-087505-23

In the matter of: 323, 781 CLARE AVE
WELLAND ON L3C0K1

Between: Waseem Ullah Khan
Adnan Ali
Asma Javed
Naila Gul

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

NOV 22, 2023

Landlord and Tenant Board

Landlords

And

Maygan Ashley Susan Charlotte Bensch
Maksymiljan Daniel Elwood

Tenants

Waseem Ullah Khan, Adnan Ali, Asma Javed and Naila Gul (the 'Landlords') applied for an order to terminate the tenancy and evict Maygan Ashley Susan Sharlotte Bensch and Maksymiljan Daniel Elwood (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 October 25, 2023, with respect to application LTB-L-073138-23.

This application was decided without a hearing being held.

Determinations:

1. The order provides that the Landlords 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 to the Landlords \$1,100.00 on or before November 3, 2023, towards rent.

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 Landlords are entitled to request an order for the payment of arrears owing.

4. The Tenants were required to pay \$4,486.00 for rent arrears and the application filing fee in the previous order. The amount that is still owing from that order is \$4,486.00 and that amount is included in this order. This order replaces order LTB-L-073138-23.
5. The Landlords collected a rent deposit of \$2,150.00 from the Tenants and this deposit is still being held by the Landlords.
6. Interest on the rent deposit is owing to the Tenants for the period from May 19, 2023, to November 22, 2023.
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 Landlords are 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 \$70.68. This amount is calculated as follows: \$2,150.00 x 12, divided by 365 days.

It is ordered that:

1. Order LTB-L-073138-23 is cancelled.
2. The tenancy between the Landlords and the Tenants is terminated. The Tenants must move out of the rental unit on or before December 3, 2023.
3. If the unit is not vacated on or before December 3, 2023, then starting December 4, 2023, the Landlords 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 Landlords on or after December 4, 2023.
5. The Tenants shall pay to the Landlords \$2,990.96 ***(Less any payments made by the Tenants after this application was filed on November 4, 2023)**. This amount represents the rent owing up to November 22, 2023, and the cost of filing the previous application, less the rent deposit and interest the Landlords owes on the rent deposit.
6. The Tenants shall also pay to the Landlords \$70.68 per day for compensation for the use of the unit starting November 23, 2023, to the date the Tenants move out of the unit.
7. If the Tenants do not pay the Landlords the full amount owing on or before December 3, 2023, the Tenants will start to owe interest. This will be a simple interest calculated from December 4, 2023, at 7.00% annually on the balance outstanding.

November 22, 2023
Date Issued



Vladislav Shustov

Member, Landlords and Tenants Board

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

The Tenants have until December 2, 2023, 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 December 2, 2023, 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 June 4, 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 Landlords:**

Reason for amount owing	Period	Amount
Amount owing from previous order	Up to October 31, 2023	\$4,486.00
New Arrears	November 1, 2023, to November 22, 2023	\$654.96
Less the rent deposit:		-\$2,150.00
Plus, daily compensation owing for each day of occupation starting November 23, 2023		\$70.68 (per day)
Total the Tenants must pay the Landlords:		\$2,990.96 + \$70.68 per day starting November 23, 2023