



Aug 28, 2023

Landlord and Tenant Board

**Order under Subsection 87(1)
Residential Tenancies Act, 2006**

Citation: TUK Developments Inc. v Dimascio, 2023 ONLTB 58788

Date: 2023-08-28

File Number: LTB-L-022178-23

LTB-L-025792-23

In the matter of: 3, 12 MAIN ST E GD 0
SELKIRK ON N0A1P0

Between: TUK Developments Inc. Landlord

And

Vincenzo John Dimascio and Lauren Tenant
Rebecca Shirley

TUK Developments Inc. (the 'Landlord') applied for an order requiring Vincenzo John Dimascio and Lauren Rebecca Shirley (the 'Tenant') to pay the rent that the Tenant owes; and because the Tenant entered into an agreement to terminate the tenancy.

This application was heard by videoconference on August 17, 2023. The Landlord's legal representative Josh McDougall, and the Tenants, attended the hearing.

Preliminary Matters:

The Tenants requested an adjournment to seek legal assistance. Application LTB-L-022178-23 was filed with the Board on March 14, 2023. On July 17, 2023 the application was adjourned at the request of the Landlord so that these two applications could be heard together. In addition, the Tenants have not paid rent for 23 months.

The Landlord's legal representative submits that he has been in contact with a Mr. Dow from a legal clinic that was helping the Tenants several times since September 2022. Mr. McDougall believes the Tenants have had legal assistance and have had ample time to obtain legal assistance prior to both scheduled hearing. Mr. McDougall also sent copies of all evidence to Mr. Dow prior to this hearing.

Based on the factors noted above, the request to adjourn was denied due to the ongoing prejudice to the Landlord.

Determinations:

1. As of the hearing date, the Tenant was still in possession of the rental unit.



2. The Tenant did not pay the total rent they were required to pay for the period from September 1, 2021 to August 31, 2023.
3. The lawful rent is \$650.00. It is due on the 1st day of each month.
4. The Tenant has not made any payments since the application was filed.
5. The rent arrears owing to August 31, 2023 are \$15,150.00
6. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
7. The Landlord and Tenant entered into an agreement to terminate the tenancy as of March 31, 2023.
8. The application was sent to a hearing because the unit number was on the application and not on the N11 signed by the Tenants.
9. The Landlord introduced as evidence of a video showing the Landlord explaining the N11 to the Tenants and showing them signing the form. There was also a full release signed by the Tenants for which they received \$3,400.00 in compensation.
10. In addition to this, the Board issued order LTB-L-025792-23 which finally disposed of this application. The Tenants filed a set aside motion on that order on July 7, 2023. A set aside motion cannot be filed on a hearing order. Therefore, the motion before me cannot be successful.

It is ordered that:

1. The Tenant shall pay to the Landlord \$15,336.00. This amount includes rent arrears owing up to August 31, 2023 and the cost of the application.
2. If the Tenant does not pay the Landlord the full amount owing on or before September 8, 2023, the Tenant will start to owe interest. This will be simple interest calculated from September 9, 2023 at 6.00% annually on the balance outstanding.
3. Application LTB-L-025792-23 was resolved by a hearing order on July 7, 2023.
4. The stay imposed by the set aside motion related to LTB-L-025792-23 is lifted immediately.

August 28, 2023

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.