



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

File Number: CEL-02631-21

In the matter of: 310, 3030 BREAKWATER COURT
MISSISSAUGA ON L5B4P1

Between: Amit Kumar Gupta Landlord

and

Favio Cruz Tenants
Hefsiba Matamoros

Amit Kumar Gupta (the 'Landlord') applied for an order to terminate the tenancy and evict Hefsiba Matamoros and Favio Cruz (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 June 7, 2021 with respect to application CEL-96843-20.

This application was heard in Passcode: 910 9539 0063# on November 26, 2021. The Landlord and the Tenants attended the hearing.

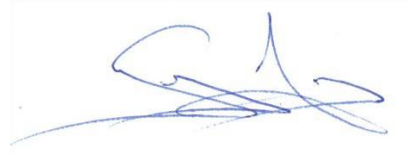
Determinations:

1. The order provided that the Landlord could apply to the Board 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 did not meet certain condition(s) specified in the order.
2. The mediated settlement reduced the amount the Tenants owed the Landlord from \$7,936.00 in arrears and costs to \$6,500.00. The Tenants were to pay the monthly rent on or before the 5th day of each month as well as \$500.00 on or before June 30th and \$1,000.00 on or before the last day of each month July through December 2021.
3. As of the time of this hearing the Tenants had not paid the rent on time, despite being provided additional time each month to make the payment, and still owe the Landlord \$4,000.00 of the \$6,000.00 they were ordered to pay by the end of December.
4. The Tenants have also not paid rent for September, October and November totalling \$6,900.00.
5. The Tenants acknowledged at the hearing they cannot afford to remain in the rental unit.

6. At the hearing the Tenants testified that there is a problem with the supply of hot water. The Landlord testified that the Tenants called the company that supplies the hot water tank but when they went to the home the Tenants would not let them in. The Tenants did not contradict this testimony.
7. The Tenants also testified that there is no heat in the rental unit. The Landlord testified that he had not been informed of this until a few days before the hearing. The Tenants provided no evidence to support this allegation apart from their testimony.
8. Considering the fact the Tenants are in breach of order CEL-96843-20, have now not paid rent for the past three months and now owe the Landlord \$10,900.00 which is \$4,500.00 more than when they entered into the settlement, I find on a balance of probabilities that the Landlord is not in serious breach of his obligations under the *Residential Tenancies Act*.
9. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

It is ordered that:

1. Order CEL-96843-20 is cancelled and replaced with the following:
2. The tenancy between the Landlord and the Tenants is terminated. The Tenants must move out of the rental unit on or before December 10, 2021.
3. The Tenants shall pay to the Landlord \$8,598.85. This amount represents the rent owing up to November 30, 2021, less the rent deposit and interest the Landlord owes on the rent deposit.
4. The Tenants shall also pay to the Landlord \$75.62 per day for compensation for the use of the unit starting December 1, 2021 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 December 10, 2021, the Tenants will start to owe interest. This will be simple interest calculated from December 11, 2021 at 2.00% annually on the balance outstanding.
6. If the unit is not vacated on or before December 10, 2021, then starting December 11, 2021, 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 December 11, 2021.



Greg Joy
Member, Landlord and Tenant Board

November 29, 2021
Date Issued

Central-RO
3 Robert Speck Pkwy, 5th Floor
Mississauga ON L4Z2G5

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 11, 2022 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.

