



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

Citation: Iaquone v Santos, 2023 ONLTB 31568

Date: 2023-04-21

File Number: LTB-L-005839-23

In the matter of: Rear, 363 Oakwood Avenue York
ON M6E2W1

Between: Remo Iaquone Landlord

And

Nelia Santos Tenant

Remo Iaquone (the 'Landlord') applied for an order to terminate the tenancy and evict Nelia Santos (the 'Tenant') and for an order to have the Tenant pay the rent they owe because the Tenant did not meet a condition specified in the order issued by the LTB on November 30, 2022 with respect to application LTB-L-021987-22.

A hearing was held to consider this application.

This application was heard by videoconference on April 4, 2023. Only the Landlord attended the hearing.

As of 10:00 a.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the Board. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

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 Tenant to terminate the tenancy and evict the Tenant if the Tenant does not meet certain condition(s) in the order. This application was filed within 30 days of the breach.

2. The breach

I find that the Tenant has not met the following conditions specified in the order: the Tenant has not paid rent on the 1st of the month and in full commencing December 2022 and has not paid \$200.00 on December 7, 2022 towards rental arrears as ordered in LTB-02198722 issued on November 30, 2022.

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3. Arrears owing

The previous application includes a request for an order for the payment of arrears of rent and the order requires the Tenant 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 Tenant was required to pay \$11,059.64 for rent arrears and the application filing fee in the previous order. The amount that is still owing from that order is \$7,979.64 and that amount is included in this order. This order replaces order LTB-L-021987-22.
5. Since the date of the previous order, the Tenant has failed to pay the full rent that became owing for the period from December 1, 2022 to April 30, 2023.

6. The rent deposit

The Landlord collected a rent deposit of \$1,300.00 from the Tenant and this deposit is still being held by the Landlord.

7. Interest on the rent deposit is owing to the Tenant for the period from August 1, 2018 to April 21, 2023.
8. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenant is required to pay.

9. Daily compensation

The Landlord is entitled to daily compensation from the day after this order is issued to the date the Tenant moves out of the unit at a daily rate of \$44.03. This amount is calculated as follows: \$1,339.28 x 12, divided by 365 days.

Section 83 considerations

10. 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. The Tenant failed to attend the hearing to provide evidence of their circumstances and the Landlord's Representative submitted that they are unaware of any circumstances that would cause me to delay or deny an eviction.

11. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

It is ordered that:

1. Order LTB-L-021987-22 is cancelled.
2. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before May 2, 2023.
3. If the unit is not vacated on or before May 2, 2023, then starting May 3, 2023, 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 May 3, 2023.
5. The Tenant shall pay to the Landlord \$11,591.80*. This amount represents the rent owing up to April 21, 2023 and the cost of filing the previous application, less the rent deposit and interest the Landlord owes on the rent deposit.
6. The Tenant shall also pay to the Landlord \$44.03 per day for compensation for the use of the unit starting April 22, 2023 to the date the Tenant moves out of the unit.
7. If the Tenant does not pay the Landlord the full amount owing on or before May 2, 2023, the Tenant will start to owe interest. This will be a simple interest calculated from May 3, 2023 at 6.00% annually on the balance outstanding.

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2023 ONLTB 31568 (CanLII)

April 21, 2023

Date Issued

Alicia Johnson

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.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on November 3, 2023 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 Tenant must pay the Landlord:

Reason for amount owing	Period	Amount
Amount owing from previous order	Up to December 31, 2022	\$11,059.64
New Arrears	December 1, 2022 to April 21, 2023	\$5,001.75
Less amounts the Tenant paid		-\$3,080.00
Less the rent deposit:		-\$1,300.00
Less the interest owing on the rent deposit	August 1, 2018 to April 21, 2023	-\$89.59
Plus daily compensation owing for each day of occupation starting April 22, 2023		\$44.03 (per day)
Total the Tenant must pay the Landlord:		\$11,591.80 +\$44.03 per day starting April 22, 2023

