



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

**Citation:** Zhao v Downer, 2023 ONLTB 75402

**Date:** 2023-11-22

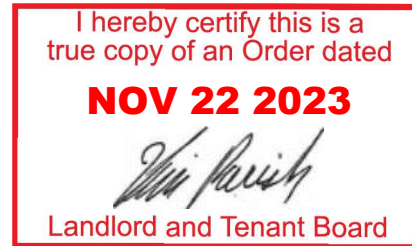
**File Number:** LTB-L-087814-23

**In the matter of:** 45 BRYANT RD  
AJAX ON L1S2Y5

**Between:** Guanghua Zhao and Liying Han

**And**

Dylan Downer and Jordan Downer



Landlords

Tenants

Guanghua Zhao and Liying Han (the 'Landlords') applied for an order to terminate the tenancy and evict Dylan Downer and Jordan Downer (the 'Tenants') and for an order to have the Tenants pay the rent that they owe because the Tenants did not meet a condition specified in the order issued by the LTB on August 25, 2023, with respect to application LTB-L-028230-23.

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 conditions specified in the order:

**The Tenants failed to pay to the Landlords the lawful rent in full on or before November 1, 2023.**

**The Tenants also failed to pay to the Landlords \$5,400.34 on or before November 1, 2023, towards arrears of 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 \$12,400.34 for rent arrears and the application filing fee in the previous order. The amount that is still owing from that order is \$5,400.34 and that amount is included in this order. This order replaces order LTB-L-028230-23.
5. Since the date of the previous order, the Tenants have failed to pay the full rent that became owing for the period from November 1, 2023, to November 30, 2023.
6. 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 \$81.51. This amount is calculated as follows: \$2,479.15 x 12, divided by 365 days.

**It is ordered that:**

1. Order LTB-L-028230-23 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 \$7,193.56\*. **(Less any payments made by the Tenants after this application was filed on November 6, 2023).** This amount represents the rent owing up to November 22, 2023, and the cost of filing the previous application.
6. The Tenants shall also pay to the Landlords \$81.51 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**

  
\_\_\_\_\_  
Kimberly Parish  
Member, Landlord and Tenant 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 to the Landlords:**

<b>Reason for amount owing</b>	<b>Period</b>	<b>Amount</b>
Amount owing from previous order	Up to August 31, 2023	\$5,400.34
New Arrears	November 1, 2023, to November 22, 2023	\$1,793.22
Plus, daily compensation owing for each day of occupation starting November 23, 2023		\$81.51 (per day)
<b>Total the Tenants must pay to the Landlords:</b>		<b>\$7,193.56 +\$81.51 per day starting November 23, 2023</b>