



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

Citation: Mazzuca v McKay, 2024 ONLTB 127

Date: 2024-03-22

File Number: LTB-L-094819-23

In the matter of: U2, 55 West Avenue South Hamilton
ON L8N2S2

Between: Ryan Mazzuca and Landlord
Scott Pattinson

And

Marion Mckay Tenant

Ryan Mazzuca (the 'Landlord') applied for an order to terminate the tenancy and evict Marion Mckay (the 'Tenant') and for an order to have the Tenant pay the rent they owe because the Tenant failed to meet a condition specified in the order issued by the Board on April 11, 2023 with respect to application LTB-L-053572-22.

When the capitalized word "Landlord" is used in this order, it refers to all persons or companies identified as a Landlord at the top of the order.

This application was heard by videoconference on January 30, 2024.

Only the Landlord attended the hearing.

As of 1:32pm, the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. 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 conditions in the order.

The breach

2. I find that the Tenant did not meet the following condition specified in the order: the Tenant did not pay the monthly rent in full and on time in November 2023. The Landlord then filed this application on November 14, 2023.
3. The application was filed within 30 days of the breach.

Arrears owing

4. 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.
5. The Tenant was ordered to pay \$5,936.00 for rent arrears and the application filing fee in the previous order. The amount that is still owing from that order is \$2,246.00 and that amount is included in this order. This order replaces order LTB-L-053572-22.
6. Since the date of the previous order, the Tenant has failed to pay the full rent that became owing for the period from November 1, 2023 to January 31, 2024. The total amount the Tenant owes the Landlord to January 31, 2024 is \$5,876.00.

Daily compensation

7. The Landlord is entitled to daily compensation from February 1, 2024 until the date the Tenant moves out of the unit at a daily rate of \$40.44. This amount is calculated as follows: \$1,230.00 x 12 months, divided by 365 days.

Section 83 considerations

8. 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 LTB-L-053572-22 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 April 2, 2024.
3. If the unit is not vacated on or before April 2, 2024, then starting April 3, 2024, 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 April 3, 2024.
5. The Tenant shall pay to the Landlord \$5,876.00*. This amount represents the rent owing up to January 31, 2024 and the cost of filing the previous application.
6. The Tenant shall also pay to the Landlord \$40.44 per day for compensation for the use of the unit starting February 1, 2024 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 April 2, 2024, the Tenant will start to owe interest. This will be simple interest calculated from April 3, 2024 at 7.00% annually on the balance outstanding.

March 22, 2024

Date Issued

Vladimir Nikitin

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 of the Tenant expires on October 3, 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 Table.

SUMMARY OF CALCULATIONS TABLE

Amount the Tenant must pay the Landlord:

Reason for amount owing	Period	Amount
Amount of arrears owing from previous order	Up to March 31, 2023	\$2,246.00
New Arrears	from November 1, 2023 to January 31, 2024	\$3,630.00
Less the rent deposit:		-\$0.00
Less the interest owing on the rent deposit		-\$0.00
Plus daily compensation owing for each day of occupation starting February 1, 2024		\$40.44 (per day)

Total the Tenant must pay the Landlord:	\$5,876.00 + \$40.44 per day starting February 1, 2024
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