



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

Citation: Starlight Canadian Residential Growth Fund II v Shearer, 2024 ONLTB 8591
Date: 2024-01-31 **File**
Number: LTB-L-091386-23

In the matter of: 206, 2570 KINGSTON RD SCARBOROUGH
ON M1M1L9

Between: Starlight Canadian Residential Growth Fund II Landlord

And

Kristy Shearer Tenant

Starlight Canadian Residential Growth Fund II (the 'Landlord') applied for an order to terminate the tenancy and evict Kristy Shearer (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 September 22, 2023, with respect to application LTB-L-051848-23-SA.

This application was heard by videoconference on January 23, 2024.

The Landlord's Legal Representative, Matt Anderson, and the Tenant attended the hearing.

Determinations:

1. The 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.
2. 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.

3. I find that the Tenant has not met the following conditions specified in the order LTB-L051848-23-SA:

The Tenant paid the monthly rent that was due on October 1, 2023, late on October 15, 2023, and did not pay any rent at all for the months of November 2023, December 2023 and January 2024.

The Tenant also paid the \$300.00 payment that was due on or before October 15, 2023, late on November 1, 2023, and did not make any payments at all for the November 15, 2023 payment; the December 15, 2023 payment; and the January 15, 2024 payment.

4. The Tenant was ordered to pay \$4,195.67 for rent arrears and the application filing fee in the previous order. The amount that is still owing from that is \$3,482.67 and that amount is included in this order.
5. The Landlord's Legal Representative explained that since the Tenant has missed many payments since the previous order, that the current rent arrears and costs owing now total \$6,704.37 to January 31, 2024. The Landlord's Legal Representative added that the Landlord is seeking an eviction of the Tenant as soon as is possible.
6. At the hearing, the Tenant confirmed that she missed the payments that were agreed to in the previous order.
7. Since the date of the previous order, the Tenant has failed to pay the full rent that became owing for the period from October 1, 2023, to January 23, 2024.
8. The Landlord collected a rent deposit of \$1,052.59 from the Tenant and this deposit is still being held by the Landlord.
9. Interest on the rent deposit is owing to the Tenant for the period from January 1, 2023, to January 23, 2024.
10. The amount of the rent deposit and interest on the rent deposit are applied to the amount the Tenant is required to pay.
11. 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 \$35.89. This amount is calculated as follows: \$1,091.60 x 12, divided by 365 days.
12. This order replaces order LTB-L-051848-23-SA.

It is ordered that:

1. **Order LTB-L-051848-23-SA 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 February 29, 2024.
3. If the unit is not vacated on or before February 29, 2024, then starting March 1, 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 March 1, 2024.
5. The Tenant shall pay to the Landlord **\$5,571.46** *. This amount represents the rent owing up to January 24, 2024, plus the cost of filing the application, less the rent deposit and interest the Landlord owes on the rent deposit.
6. The Tenant shall also pay to the Landlord **\$35.89** 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 February 29, 2024, the Tenant will start to owe interest. This will be simple interest calculated from March 1, 2024, at 7.00% annually on the balance outstanding.

January 31, 2024

Date Issued

Michael Di Salle

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 August 31, 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	Up to September 30, 2023	\$3,482.67
New Arrears	from October 1, 2023 to January 23, 2024	\$2,955.38
Filing Fee		\$186.00
Less the rent deposit:		-\$1,052.59
Less the interest owing on the rent deposit	January 1, 2023 to January 23, 2024	-\$0.00
Plus daily compensation owing for each day of occupation starting January 24, 2024		\$35.89 (per day)

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Total the Tenant must pay the Landlord:	\$5,571.46 + \$35.89 per day starting January 24, 2024
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