



**Order under Section 78(11)
Residential Tenancies Act, 2006**

Citation: Wu v Daly, 2023 ONLTB 69490

Date: 2023-10-19

File Number: LTB-L-059517-23-SA

In the matter of: 100 BLACKWELL CRES
OSHAWA ON L1L0C8

Between: Meixing Wu Landlord

And

Alicia Daly, Jeniffer Daly and Jermaine A James Tenants

Meixing Wu (the 'Landlord') applied for an order to terminate the tenancy and evict Alicia Daly, Jeniffer Daly and Jermaine A James (the 'Tenants') and for an order to have the Tenants pay the rent they owe because the Tenants did not meet a condition specified in the order issued by the LTB on February 1, 2023 with respect to application LTB-L-027117-22.

The Landlord's application was resolved by order LTB-L-059517-23, issued on August 18, 2023. This order was issued without a hearing being held.

The Tenants filed a motion to set aside order LTB-L-059517-23.

The motion was heard by videoconference on October 10, 2023. The Landlord and the Landlord's legal representative Rong Wei Yu attended the hearing. The Tenants Alicia Daly and Jermaine A. James attended the hearing and spoke with duty counsel prior to the hearing.

Determinations:

1. The prior consent order LTB-L-027117-22 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 they did not meet certain condition(s) specified in the settlement.

2. The Landlord claims the Tenants breached the prior order by failing to pay the full monthly rent for July 2023, on or before July 15, 2023.
3. The Tenants agreed that they breached the prior order as they only paid \$2,000.00 to the Landlord in July 2023.
4. The parties agreed that the lawful monthly rent is \$2,645.00 and it is due on the 15th day of every month.
5. The Tenants stated that they notified the Landlord on May 17, 2023 via text message that they could not longer afford to pay \$2,645.00 for the monthly rent plus \$2,000.00 towards
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the arrears. The Tenants stated they advised the Landlord they could pay \$4,000.00 total each month for the monthly rent and the arrears. The Tenants stated that the Landlord advised the Tenants that they are required to follow the prior consent order issued by the Board and the Landlord requires the amount to be paid as the Landlord has a mortgage payment of approximately \$7,000.00 per month.

6. The Landlord states the Tenants have paid \$14,000.00 towards the arrears owing from the prior consent order LTB-L-027117-22. The arrears and costs in that order up to January 31, 2023 are noted as \$18,533.00. The Landlord states the Tenants owe a balance of \$4,533.00 from that order. The Tenants did not dispute that they owe this amount.
7. The Landlord states the Tenants owe an additional \$4,580.00 towards new rent which became due since the issuance of the prior consent order. The Landlord provided a breakdown as follows: \$645.00 owing for June 2023, \$645.00 owing for July 2023, \$645.00 owing for August 2023, and \$2,645.00 owing for September 2023. The Tenants did not dispute that they also owe this amount.
8. The parties agree that the total amount the Tenants owe to the Landlord up until October 14, 2023 is \$9,113.00 (\$4,533.00 arrears owing from prior consent order + \$4,580.00 new rent owing since issuance of prior order up to September 30, 2023).
9. At the hearing, the parties agreed to a termination date of the tenancy, effective October 31, 2023.
10. After considering all of the circumstances, I find that it would not be unfair to set aside order LTB-L-059517-23. The Tenants have paid a significant amount towards the arrears from the prior consent order and the parties agreed to a termination of the tenancy effective October 31, 2023.

11. The Landlord collected a rent deposit of \$2,645.00 from the Tenants and this deposit is still being held by the Landlord.
12. Interest on the rent deposit is owing to the Tenants for the period from September 1, 2018 to October 19, 2023 in the amount of \$339.72.
13. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenants are required to pay.
14. The Landlord is entitled to daily compensation from November 1, 2023 to the date the Tenants move out of the unit at a daily rate of \$86.96. This amount is calculated as follows: \$2,645.00 x 12, divided by 365 days.

It is ordered that:

1. The motion to set aside Order LTB-L-059517-23, issued on August 18, 2023, is granted. Order LTB-L-059517-23, issued on August 18, 2023, is set aside and cannot be enforced.
2. Order LTB-L-059517-23 issued on August 18, 2023 is cancelled and replaced with the following:
3. The tenancy is terminated effective October 31, 2023. The Tenants must move out of the rental unit on or before October 31, 2023.

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4. If the unit is not vacated on or before October 31, 2023, then starting November 1, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
5. 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 November 1, 2023.
6. The Tenants shall pay to the Landlord \$6,128.28 (\$4,533.00 prior consent order arrears owing + \$4,580.00 new rent owing up to September 30, 2023 - \$2,645.00 last month rent deposit - \$339.72 interest on last month rent deposit).
7. The Tenants shall also pay to the Landlord \$86.96 per day for compensation for the use of the unit starting November 1, 2023 to the date the Tenants move out of the unit.
8. If the Tenants do not pay the Landlord the full amount owing on or before October 31, 2023, the Tenants will start to owe interest. This will be a simple interest calculated from November 1, 2023 at 7.00% annually on the balance outstanding.

October 19, 2023

Date Issued

Kimberly Parish

Member, Landlord and Tenants 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.