



**Order under Section 94
Residential Tenancies Act, 2006**

Citation: The Effort Trust Company v Eckersley, 2023 ONLTB 61849

Date: 2023-09-20

File Number: LTB-L-000656-23

In the matter of: 106, 1195 FENNEL AVE E
HAMILTON ON L8T1S9

Between: The Effort Trust Company Landlord

And

Ashley Eckersley Tenant

The Effort Trust Company (the 'Landlord') applied for an order to terminate the tenancy and evict Ashley Eckersley (the 'Tenant') because:

- the rental unit is the superintendent's premises and the Tenant's employment as superintendent has ended.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on August 23, 2023.

The Landlord's Representative Kimberly Holleran and the Tenant attended the hearing.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. Therefore, the tenancy is terminated as of October 15, 2023 and the Tenant must pay daily compensation from the 8th day after their termination which is December 24, 2022.
2. The rental unit is a "superintendent's premises" and the Tenant occupied the rental unit as a result of her employment as a superintendent in the building.
3. The Tenant was in possession of the rental unit on the date the application was filed.
4. The Landlord terminated the employment of the Tenant on December 16, 2022 (Landlord Exhibit 1, pp. 2-3). The Tenant has not vacated the superintendent's premises and more than one week has passed since their employment was terminated.
5. Based on the Monthly rent, the daily compensation is \$41.06. This amount is calculated as follows: \$1,249.00 x 12, divided by 365 days.
6. The Tenant was required to pay the Landlord \$9,978.31 in daily compensation for use and occupation of the rental unit for the period from December 24, 2022 to August 23, 2023.

7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. There is no last month's rent deposit.

Relief from eviction

9. 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 *not* be unfair to delay the eviction until October 15, 2023 pursuant to subsection 83(1)(b).
10. The Tenant testified that she is a single mother, her children go to school nearby, and she relocated from another city for this superintendent position and to live in this building. While I understand the Landlord's circumstances, it is not unfair to delay the eviction two weeks to provide the Tenant and her family some more time to find another place to live.
11. I find that a conditional order is not possible in these circumstances as it likely would not be enforceable under s. 78(1)(2.)(i) of the Act because the conditions would not give rise to the same grounds for terminating the tenancy as were claimed in the previous application (i.e. termination). Furthermore, I have reviewed the Landlord's evidence submitted on August 28 (except the videos which were not playable) and am satisfied that a conditional order would be unfair and too prejudicial to the Landlord given the events that resulted in the termination of the Tenant's employment, specifically the Landlord's ongoing communications with police and the impact of the Tenant's conduct on their staff and the other tenants.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before October 15, 2023.
2. If the unit is not vacated on or before October 15, 2023, then starting October 16, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. 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 October 16, 2023.
4. The Tenant shall pay to the Landlord \$10,164.31, which represents compensation for the use of the unit from December 24, 2022 to August 23, 2023 and the application fee.
5. The Tenant shall also pay the Landlord compensation of \$41.06 per day for the use of the unit starting August 24, 2023 until the date the Tenant moves out of the unit.
6. If the Tenant does not pay the Landlord the full amount owing on or before October 15, 2023, the Tenant will start to owe interest. This will be simple interest calculated from October 16, 2023 at 6.00% annually on the balance outstanding.

September 20, 2023
Date Issued

Elan Shemtov
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 April 16, 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.