



Order under Section 87 Residential Tenancies Act, 2006

Citation: 719478 Ontario Inc. v Lambert, 2023 ONLTB 56392

Date: 2023-08-21

File Number: LTB-L-014321-23

In the matter of: 31 Privet Road
North York Ontario M3M 2C4

Between: 719478 Ontario Inc. Landlord

And

Gerard Lambert Former Tenant

719478 Ontario Inc (the 'Landlord') applied for an order requiring Gerard Lambert (the 'Former Tenant') to pay rent and daily compensation that the Former Tenant owes.

This application was heard by videoconference on April 6, 2023, June 2, 2023 and July 14, 2023.

Only the Landlord's agent Maria De Gasperis and the Landlord's Legal Representative Antonietta Algieri attended the hearing.

As of 9:20 am, the Former 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. As explained below, the Landlord has proven on a balance of probabilities the allegations contained in the application. Therefore, the Former Tenant must pay the Landlord **\$8,201.00** by September 1, 2023.
2. On April 24, 2023, LTB-L-014321-23-IN was issued granting the Landlord alternative service as permitted under Rule 3.4 of the Board's *Rules of Procedure*. I am satisfied that the Landlord served the Former Tenant with the application and Notice of Hearing in accordance with subsection 191(1.0.1) of the *Residential Tenancies Act, 2006* (the 'Act') and Rules 3.3 and 5.8 of the Board's *Rules of Procedure*.

3. Further, in LTB-L-014321-23-IN I had made determinations that the Former Tenant had abandoned the unit on December 31, 2022.
4. The application was filed within one year after the Former Tenant ceased to be in possession of the rental unit.

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5. The lawful rent was \$2,000.00. It was due on the 1st day of each month.
6. The Former Tenant did not provide the Landlord 60 days notice to terminate the tenancy as required under s. 44(3) of the Act.
7. The Landlord alleges that the Former Tenant failed to pay rent for the months of November 2022, December 2022, January 2023 and February 2023.
8. Section 88(1) of the Act states that if a tenant abandons a rental unit without notice, arrears of rent are owing for the period that ends on the earliest termination date that could have been specified in a notice of termination had the tenant given notice of termination in accordance with the Act.
9. As I had made a determination that the Former Tenant abandoned the unit as of December 31, 2022, the earliest termination date that could have been specified in a notice was February 28, 2023.
10. The unit was re-rented as of April 1, 2023. The Landlord required time to clean the unit before re-renting. The Landlord had waited an appropriate amount of time before determining whether or not the unit had been abandoned before re-renting it. As such, I am satisfied that the Landlord mitigated their losses in accordance with s. 16 of the Act.
11. As such, I am satisfied on a balance of probabilities that the Former Tenant owes the Landlord rent for the months of November 2022, December 2022, January 2023 and February 2023 for a total amount owing of **\$8000.00**.
12. The Landlord also incurred costs of **\$201.00** for filing the application and is entitled to reimbursement of those costs.

It is ordered that:

13. The Former Tenant shall pay to the Landlord **\$8000.00** which represents rent and compensation owing up to February 28, 2023.
14. The Former Tenant shall also pay to the Landlord **\$201.00** for the cost of filing the application.
15. The total amount the Former Tenant owes the Landlord is **\$8,201.00**.

16. If the Former Tenant does not pay the Landlord the full amount owing on or before September 1, 2023, the Former Tenant will start to owe interest. This will be simple interest calculated from September 2, 2023 at 6.00% annually on the balance outstanding.
17. For greater certainty, as I have made determinations that the unit was abandoned and the tenancy was terminated as of December 31, 2022, the Landlord is permitted to sell the vehicles possessing Vehicle Identification Numbers 1G2AM37R9EP216849 and 1FAFP4046YF305663 as issued by the Ministry of Transportation, which had been left by the Former Tenant at the residential complex in accordance with s. 41 of the Act.

August 21, 2023

_____ **Date Issued**
Jagger Benham

Member, Landlord and Tenant Board

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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.