



**Order under Section 69
Residential Tenancies Act, 2006**

Citation: Tian v Willcocks, 2023 ONLTB 53515

Date: 2023-08-03

File Number: LTB-L-015547-23

In the matter of: 437 PRINCE OF WALES DR WHITBY
ON L1N6P3

Between: Honghan Tian Landlord

And

Chuck (aka Bertram C.) Willcocks and Tenants

Stacey Thompson

Honghan Tian (the 'Landlord') applied for an order to terminate the tenancy and evict Chuck (aka Bertram C.) Willcocks and Stacey Thompson (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe.

This application was heard by videoconference on July 19, 2023.

The Landlord, the Landlord's Legal Representative, Julie Jing Zhu, and the Tenant, Chuck Bertram representing both Tenants, attended the hearing.

Determinations:

1. The Landlord served the Tenants with a valid Notice to End Tenancy Early for Nonpayment of Rent (N4 Notice). The Tenants did not void the notice by paying the amount of rent arrears owing by the termination date in the N4 Notice or before the date the application was filed.
2. As of the hearing date, the Tenants were still in possession of the rental unit.
3. The lawful rent is \$2,500.00. It is due on the 7th day of each month.

4. Based on the Monthly rent, the daily rent/compensation is \$82.19. This amount is calculated as follows: \$2,500.00 x 12, divided by 365 days.
5. The Tenants have paid \$5,000.00 to the Landlord since the application was filed.

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6. After the application was filed, the Tenants received a credit of \$1,900.00 for services rendered to the property.
7. The rent arrears owing to August 6, 2023, are **\$11,200.00**.
8. The Landlord incurred costs of **\$186.00** for filing the application and is entitled to reimbursement of those costs.
9. The Landlord collected a rent deposit of \$2,600.00 from the Tenants and this deposit is still being held by the Landlord. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.
10. Interest on the rent deposit, in the amount of \$68.24 is owing to the Tenants for the period from December 24, 2020 to July 19, 2023.
11. The Tenant requested that the Board order a repayment plan so that the Tenants could pay the Landlord back for the rental arrears owing as well as to continue to live in the rental unit. The Tenant offered up to \$1,000.00 extra per month on top of the regular rent. The Landlord's Legal Representative was not in favour of the Tenant's request and asked for a standard order from the Board.
12. Therefore, having considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), I find that it would not be unfair to grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.

It is ordered that:

1. The Landlord's application for eviction of the Tenants is denied on the condition that:
 - (a) The Tenants shall pay installments of **\$1,000.00** on or before the 21st day of the month for the eleven (11) month period commencing August 21, 2023 to June 21, 2024.
 - (b) The remaining balance of **\$386.00** shall be paid on or before July 21, 2024.

- (c) The Tenants shall pay the Landlord the monthly rent for the months of August 2023 to July 2024 in full and by the **seventh day** of each corresponding month.
2. If the Tenants fail to make any of the payments in accordance with paragraph 1, and by the dates required then:

(a) The Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the

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“Act”) for an order terminating the tenancy and evicting the Tenants and for the payment of any new arrears of rent and NSF charges not already ordered under paragraph 1 of this order. The Landlord must make the application within 30 days of a breach of a condition set out in paragraph 1 of this order.

(b) The balance owing under paragraph 1 of this order shall become payable on the day following the date of default. The monies owing shall bear interest at the post-judgment interest rate determined under subsection 207(7) of the Act.

August 3, 2023

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.