



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

Citation: Hou v Silva, 2023 ONLTB 49337

Date: 2023-07-12

File Number: LTB-L-011955-23

In the matter of: Upstairs, 67 Regent Street East York
Ontario M6N3N8

Between: Xiao Qing Hou Landlord

And

Nuno Silva Tenant

Xiao Qing Hou (the 'Landlord') applied for an order to terminate the tenancy and evict Nuno Silva (the 'Tenant') and for an order to have the Tenant pay the rent they owe and for an order to have the Tenant pay compensation for damage they owe because the Tenant did not meet a condition specified in the order issued by the LTB on September 16, 2022 with respect to application TSL26635-22-SA.

This application was directed to a hearing by endorsement dated March 30, 2023.

The application was heard by videoconference on April 19, 2023.

The Landlord attended the hearing. The Tenant attended the hearing.

Determinations:

1. The order 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. This application was filed within 30 days of the breach.
2. I find that the Tenant has not met the following conditions specified in the order:

The Tenant failed to make an arrears payment of \$1,500.00 on or before January 20, 2023

3. 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.
4. The Tenant was required to pay \$10,536.00 for rent arrears and the application filing fee in the previous order. The amount that is still owing from that order is \$8,042.00 and that amount is included in this order. This order replaces order TSL-26635-22-SA.
5. Since the date of the previous order, the Tenant has failed to pay the full rent that became owing for the period from December 20, 2022 to January 31, 2023.
6. 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 \$78.90. This amount is calculated as follows: \$2,400.00 x 12, divided by 365 days.
7. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the impact of COVID-19 on the parties and whether the Landlord attempted to negotiate a repayment agreement with the Tenant and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

It is ordered that:

1. Order TSL-26635-22-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 July 23, 2023.
3. If the unit is not vacated on or before July 23, 2023, then starting July 24, 2023, 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 July 24, 2023.
5. The Tenant shall pay to the Landlord \$19,186.00* (**Less any payments made by the Tenant after this application was filed on February 2, 2023**). This amount represents the rent owing up to July 23, 2023 and the cost of filing the previous application, less the rent deposit and interest the Landlord owes on the rent deposit.
6. The Tenant shall also pay to the Landlord \$78.90 per day for compensation for the use of the unit starting July 24, 2023 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 July 23, 2023, the Tenant will start to owe interest. This will be a simple interest calculated from July 24, 2023 at 6.00% annually on the balance outstanding.

July 12, 2023

Date Issued

Emile Ramlochan

Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor,
Toronto ON M7A 2G6

The Tenant has until July 22, 2023 to file a motion with the LTB to set aside the order under s. 78(9) of the Act. If the tenant files the motion by July 22, 2023 the order will be stayed and the LTB will schedule a hearing.

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 January 24, 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.

Summary of Calculation

Amount the Tenant must pay the Landlord:

Reason for amount owing	Period	Amount
Amount owing from previous order	Up to October 31, 2022	\$8,042.00
New Arrears	February 1, 2023 to July 23, 2023	\$11,144.00
New NSF cheque charges and related administration charges		\$0.00
Plus daily compensation owing for each day of occupation starting July 7, 2023		\$78.90 (per day)
Total the Tenant must pay the Landlord:		\$19,186.00 +\$78.90 per day starting July 24, 2023