



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

**Citation:** Ahonkhai v Fitch, 2023 ONLTB 49102

**Date:** 2023-07-12

**File Number:** LTB-L-027025-23

**In the matter of:** 55 Carew Boulevard  
Lindsay, ON K9V 0P7

**Between:** Imohimi Ifije Ahonkhai Landlords  
Chinedum Udeagbala

**And**

Denise Fitch Tenants  
Greg Fitch

Imohimi Ifije Ahonkhai and Chinedum Udeagbala (the 'Landlords') applied for an order to terminate the tenancy and evict Denise Fitch and Greg Fitch (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 mediated settlement signed by the parties on April 3, 2023 with respect to application LTBL-055130-22.

This matter was directed to a hearing to determine who the Tenants are.

This application was heard by videoconference on May 29, 2023.

The Landlords and the Tenant Greg Fitch attended the hearing and the Tenant met with Tenant Duty Counsel however, due to connectivity issues the Tenant was unable to remain connected to participate in the hearing and the hearing proceeded in his absence after the Tenant was given some time to reconnect and failed to do so.

**Determinations:**

1. The mediated settlement provides that the Landlords 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 Tenants if the Tenants do not meet certain condition(s) in the mediated settlement. This application was filed within 30 days of the breach.
2. The Landlord's application had been directed to a hearing as the Landlord's L1 application had listed two Tenants, while the Landlord's L4 application only listed one tenant, Greg Fitch.
3. The Landlords testified that when the L1 was filed, both Tenants had been living in the unit and both Tenants were named on the lease. The Landlords testified that they have received one rent payment since the application was filed in the amount of \$2,950.00 and that was paid by Denise Fitch. As such, I am satisfied that both Tenants should be included as parties in this application and the application is amended accordingly.
4. I find that the Tenants have not met the following conditions specified in the mediated settlement:
  - a) The Tenants failed to pay \$50.00 on or before March 1, 2023.
  - b) The Tenants failed to pay \$20,600.00 on or before March 31, 2023.
  - c) The Tenants failed to pay \$186.00 on or before March 31, 2023.
5. The previous application includes a request for an order for the payment of arrears of rent and the mediated settlement requires the Tenants 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.
6. The Tenants were required to pay \$20,650.00 for rent arrears and the application filing fee in the previous mediated settlement. The amount that is still owing from that mediated settlement is \$26,000.00 and that amount is included in this order.
7. Since the date of the previous mediated settlement, the Tenants have failed to pay the full rent that became owing for the period from March 1, 2023 to April 30, 2023.

#### *Daily Compensation*

8. 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 \$96.99. This amount is calculated as follows: \$2,950.00 x 12, divided by 365 days.

#### *Section 83 Considerations*

9. I have considered all of the disclosed circumstances in accordance with s. 83(2) of the Act and find that it would be unfair to grant relief from eviction pursuant to s. 83(1) of the Act. The Tenants did not abide by the conditional order and now the arrears are greater than the Board's jurisdictional limit of \$35,000.00 as outlined under s. 207 of the Act.

#### **It is ordered that:**

1. The tenancy between the Landlords and the Tenants is terminated. The Tenants must move out of the rental unit on or before July 23, 2023.
2. If the unit is not vacated on or before July 23, 2023, then starting July 24, 2023, the Landlords 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 Landlords on or after July 24, 2023.
4. The Tenants shall pay to the Landlord \$35,000.00\*\*. **(Less any payments made by the Tenants after this application was filed on April 3, 2023).** This amount represents the rent owing up to July 12, 2023 and the cost of filing the previous application.
5. The Tenants shall also pay to the Landlords \$96.99 per day for compensation for the use of the unit starting July 13, 2023 to the date the Tenants moves out of the unit.
6. If the Tenants do not pay the Landlords the full amount owing on or before July 23, 2023, the Tenants 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**

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Jagger Benham  
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 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.

\* Refer to the attached Summary of Calculations.

\*\* The Board's monetary jurisdiction is \$35,000.00 in accordance with s. 207 of the Act.

**Summary of Calculation**

**Amount the Tenant must pay the Landlord:**

Reason for amount owing	Period	Amount
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Amount owing from previous mediated settlement	Up to March 31, 2023	\$26,000.00
New Arrears	March 1, 2023 to July 12, 2023	\$10,013.88
New NSF cheque charges and related administration charges		\$0.00
Plus daily compensation owing for each day of occupation starting July 13, 2023		\$96.99 (per day)
<b>Total the Tenant must pay the Landlord:</b>		<b>\$35,000.00**</b>

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