



Order under Section 21.2 of the Statutory Powers Procedure Act and the Residential Tenancies Act, 2006

Citation: First Rock Properties Ltd. v Wendy Collins and Shaneil Henry, 2023 ONLTB 47118

Date: 2023-06-29 **File Number:**
LTB-L-027457-22-RV

In the matter of: 407, 515 QUEEN VICTORIA DRIVE HAMILTON
ON L8W1M9

Between: FIRST ROCK PROPERTIES LTD Landlord

And

Shaneil Henry Tenant Wendy Collins

Review Order

FIRST ROCK PROPERTIES LTD (the 'Landlord') applied for an order to terminate the tenancy and evict Shaneil Henry and Wendy Collins (the 'Tenants') because:

- the Tenants have been persistently late in paying the Tenants' rent.

This application was resolved by a consent order, order LTB-L-027457-22 issued on April 27, 2023.

On May 19, 2023, the Tenants requested a review of the order and that the order be stayed until the request to review the order is resolved.

On May 25, 2023, interim order LTB-L-027457-22-RV-IN was issued, staying the order.

This request was heard by videoconference on June 21, 2023.

The Landlord's representative, E. Veeneman, and the Tenant Wendy Collins attended the hearing.

Determinations:

1. The Tenants alleged that the consent order set out incorrect dates for the payments required by the order.



2. The Landlord concedes that the order mistakenly required the Tenants to make two payments on May 19, 2023. The Tenants could have requested a clerical amendment of the order but they choose to file a review and requested a stay of the order. The payment dates cannot be retroactively restored therefore I heard the application de novo.
3. The Tenants were in possession of the rental unit on the date the application was filed.
4. Since November 2021, the Tenants have persistently failed to pay the rent on the date it was due. The rent is due on the 1st day of each month. out of
5. The rent arrears to the end of June 30, 2023 amount to \$3,551,89.
6. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
7. The Landlord collected a rent deposit of \$1,903.05 from the Tenants and this deposit is still being held by the Landlord. Interest on the rent deposit in the amount of \$23.78 is owing to the Tenants for the period from January 1, 2022 to June 21, 2023 .
8. 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 postpone the eviction until July 31, 2023 pursuant to subsection 83(1)(b) of the Act.
9. The Tenants have been struggling to pay the rent for a long time. They failed to comply with a previous conditional order (see SOL-10018-19-SA) and did not show good faith by making any payment towards arrears after the consent order was stayed. I am not satisfied that another conditional order is viable or fair to the Landlord. The delay is to give the Tenants and their children time to find new accommodation.

It is ordered that:

1. The request to review order LTB-L-027457-22 issued on April 27, 2023, is cancelled and replaced by the following.
2. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before July 31, 2023.
3. If the unit is not vacated on or before July 31, 2023, then starting August 1, 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 August 1, 2023.
5. The Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.



- 6. As of the date of the hearing, the Tenants owe the to the Landlord **\$1,168.40**. This amount includes rent arrears owing up to the date of the hearing and the cost of filing the application. The rent deposit and interest the Landlord owes on the rent deposit are deducted from the amount owing by the Tenant.
- 7. The Tenants shall also pay the Landlord compensation of \$62.57 per day for the use of the unit starting June 22, 2023 until the date the Tenants move out of the unit.

out of

- 8. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.

June 29, 2023

Date Issued

Egya Sangmuah

Vice Chair, 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 February 1, 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.



out of

2023 ONL TB 47118 (CanLI)