



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

Citation: El-hayek v Saunders, 2023 ONLTB 46590

Date: 2023-06-26

File Number: LTB-L-018992-23

2023 ONLTB 46590 (CanLII)

In the matter of: 2, 420 EGERTON ST
LONDON ON N5W3Z3

Between: Monia El -Hayek Landlord

And

Brooklyn Irene Saunders Tenant

Monia El-Hayek (the 'Landlord') applied for an order to terminate the tenancy and evict Brooklyn Irene Saunders (the 'Tenant') because the Tenant did not meet a condition specified in the order issued by the LTB on February 13, 2023 with respect to application LTB-L-035262-22.

This matter was directed to hearing to correct a discrepancy with the last month rent deposit. This application was heard by videoconference May 15, 2023.

The Landlord's Legal Representative, Timothy Moberly, and the Tenant attended the hearing.

The Tenant declined speaking with Duty Counsel prior to the hearing.

At 10:06 a.m., when the matter was ready to proceed, the Tenant dropped off the line. At 10:39 a.m., the Tenant had not called back in; the matter proceeded as uncontested based on the Landlord's evidence.

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. Order LTB-L-035262-22 required the Tenant to pay: \$1,500.00 on or before February 10, 2023; February 17, 2023 through November 17, 2023 \$1,00.00 each month; December 17, 2023 \$736.00; and, the rent in full March 1, 2023 through December 1, 2023.
3. The Landlord's Legal Representative testified that the Tenant: paid the \$1,500.00 due on February 10th on February 17, 2023; only paid \$1,700.00 on March 2, 2023 for March rent and was thus short and late. Since the application was filed the Tenant missed the arrears' payments due March and April plus the rent due April and May. Based on the breaches the L4 application is based on, and that the Tenant is continuing to breach, the Landlord is seeking termination.
4. Based on the uncontested evidence and testimony before me, as of the filing of the L4 application on March 3, 2023, I find that the Tenant has not met the following conditions specified in the order: the Tenant was late paying the \$1,500.00 due on February 10, 2023, it was paid the 17th; and, the Tenant did not pay the lawful monthly rent in full and on time March 1, 2023, it was \$10.00 short and 1 day late.
5. I further find that since the filing of the L4 application, the Tenant has further breached the conditions by not paying
6. 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.
7. The Tenant was required to pay \$12,236.00 for rent arrears and the application filing fee in the previous order. The amount that is still owing from that order is \$9,736.00 and that amount is included in this order. This order replaces order LTB-L-035262-22.
8. Since the date of the previous order, the Tenant has failed to pay the full rent that became owing for the period from March 1, 2023 through May 1, 2023; pursuant to the previous order, these rents were due by the 1st of each respective month.
9. The Landlord collected a rent deposit of \$1,800.00 from the Tenant on November 1, 2021, and this deposit is still being held by the Landlord.
10. Interest on the rent deposit is owing to the Tenant for the period from November 1, 2021.
11. The last month rent deposit and any applicable interest must be applied to the last month of the tenancy.
12. The Landlord is entitled to daily compensation from the day after this termination date if the Tenant does not vacate the rental unit to the date the Tenant moves out of the unit at a daily rate of \$59.18. This amount is calculated as follows: \$1,800.00 x 12, divided by 365 days.
13. 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 be unfair to grant relief

from eviction pursuant to subsection 83(1) of the Act. The Tenant breached the conditional order with respect to the payment due February 10, 2023 and the rent due March 1, 2023. And continued to breach after the Landlord filed the L4 application. Further, the Tenant was not present at the time the hearing proceeded to offer any other considerations.

It is ordered that:

1. Order LTB-L-035262-22 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 7, 2023.
3. If the unit is not vacated on or before July 7, 2023, then starting July 8, 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 8, 2023.
5. The Tenant shall pay to the Landlord \$13,097.02*. This amount represents the rent owing up to June 26, 2023.
6. The Tenant shall also pay to the Landlord \$59.18 per day for compensation for the use of the unit starting June 27, 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 7, 2023, the Tenant will start to owe interest. This will be a simple interest calculated from July 8, 2023 at 6.00% annually on the balance outstanding.

June 26, 2023

Date Issued

Diane Wade

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 8, 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.

Summary of Calculation

Amount the Tenant must pay the Landlord:

Reason for amount owing	Period	Amount
Amount owing from previous order		\$9,736.00
Amount of compensation for damages owing from previous order		\$0.00
New Arrears	April 1, 2023 to June 28, 2023	\$5,204.10
New NSF cheque charges and related administration charges		\$0.00
Less the rent deposit:		-\$1,800.00
Less the interest owing on the rent deposit	November 1, 2021 to June 26, 2023	-\$43.08
Total the Tenant must pay the Landlord:		\$13,097.02 Plus \$59.18 per day starting June 27, 2023

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