



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

Citation: Marilyn Camiletti v David Degrace, 2023 ONLTB 42747

Date: 2023-06-15

File Number: LTB-L-041807-23

2023 ONLTB 42747 (CanLII)

In the matter of: 1087 FEATHERSTONE CRT
KINGSTON ON K7M8R4

Between: Marilyn Camiletti Landlord

And

David Degrace and Jessica Taylor-Walker Tenants

Marilyn Camiletti (the 'Landlord') applied for an order to terminate the tenancy and evict David Degrace and Jessica Taylor-Walker (the 'Tenants') and for an order to have the Tenants pay the rent that they owe because the Tenants did not meet a condition specified in the order issued by the LTB on March 9, 2023, with respect to application LTB-L-041898-22.

This application was decided without a hearing being held.

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 Tenants to terminate the tenancy and evict the Tenants if the Tenants does not meet certain condition(s) in the order. This application was filed within 30 days of the breach.
2. I find that the Tenants have not met the following conditions specified in the order:

The Tenants failed to pay to the Landlord the lawful rent in full on or before May 1, 2023.

The Tenants also failed to pay to the Landlord \$493.17 on or before May 25, 2023, towards arrears of rent.

3. The previous application includes a request for an order for the payment of arrears of rent and the order 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.
4. The Tenants were required to pay \$5,993.17 for rent arrears and the application filing fee in the previous order. The amount that is still owing from that order is \$4,993.17 and that amount is included in this order. This order replaces order LTB-L-041898-22.
5. Since the date of the previous order, the Tenants have failed to pay the full rent that became owing for the period from May 1, 2023, to May 31, 2023.
6. The Landlord collected a rent deposit of \$1,372.80 from the Tenants and this deposit is still being held by the Landlord.
7. Interest on the rent deposit is owing to the Tenants for the period from January 1, 2021, to June 15, 2023.
8. The amount of the rent deposit and interest on the rent deposit is applied to the amount the Tenants is required to pay.
9. The Landlord is entitled to daily compensation from the day after this order is issued to the date the Tenants move out of the unit at a daily rate of \$46.82. This amount is calculated as follows: \$1,424.00 x 12, divided by 365 days.

It is ordered that:

1. Order LTB-L-041898-22 is cancelled.
2. The tenancy between the Landlord and the Tenants is terminated. The Tenants must move out of the rental unit on or before June 26, 2023.
3. If the unit is not vacated on or before June 26, 2023, then starting June 27, 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 June 27, 2023.
5. The Tenants shall pay to the Landlord \$4,294.58*(Less any payments made by the Tenants after this application was filed on May 26, 2023). This amount represents the rent owing up to June 15, 2023, and the cost of filing the previous application, less the rent deposit and interest the Landlord owes on the rent deposit.
6. The Tenants shall also pay to the Landlord \$46.82 per day for compensation for the use of the unit starting June 16, 2023, to the date the Tenants move out of the unit.
7. If the Tenants does not pay the Landlord the full amount owing on or before June 26, 2023, the Tenants will start to owe interest. This will be a simple interest calculated from June 27, 2023, at 6.00% annually on the balance outstanding.

June 15, 2023

Date Issued

Vladislav Shustov

Member, Landlord and Tenant Board

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

The Tenants have until June 25, 2023, to file a motion with the LTB to set aside the order under s. 78(9) of the Act. If the Tenants files the motion by June 25, 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 December 27, 2023 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 Tenants must pay the Landlord:

Reason for amount owing	Period	Amount
Amount owing from previous order	Up to February 28, 2023	\$4,993.17
New Arrears	May 1, 2023, to June 15, 2023	\$706.30
Less the rent deposit:		-\$1,372.80
Less the interest owing on the rent deposit	January 1, 2021, to June 15, 2023	-\$32.09
Plus, daily compensation owing for each day of occupation starting June 16, 2023		\$46.82 (per day)
Total the Tenants must pay the Landlord:		\$4,294.58 + \$46.82 per day starting June 16, 2023

2023 ONLTB 42747 (CanLII)